



MARIN MUNICIPAL WATER DISTRICT

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October 29, 2004

Cher Daniels
Supervising Environmental Planner
Department of Corrections
P.O. Box 942883
Sacramento, CA 94283-9086

Subject: Draft EIR – San Quentin State Prison Condemned Inmate Complex Project

Dear Ms Daniels;

Our staff has reviewed the subject Draft EIR and has the following comments:

The characterization of the MMWD facilities and operations is correct and represents a fair and accurate full disclosure account. Demand projections of the proposed project identify an increase in overall use above the present demand of the prison. The proposed condemned inmate complex (CIC) is projected to use approximately 227 acre-feet of additional water per year.

The EIR notes a concern that the proposed project cannot take direct credit for the toilet retrofit program that will reduce the prison's existing use by approximately 320 acre-feet. That program is currently underway and may be completed as early as 2005. MMWD maintains a high level of confidence that the water savings, as projected, should be achieved. With employment of the same low water use equipment as part of the proposed project, it is projected that future demand will approximately equal the existing water entitlement. Regardless of whether the current retrofit project is being developed as a mitigation for future water use at the Prison, its effect is such that the proposed CIC project will not significantly increase current water demand levels at San Quentin Prison.

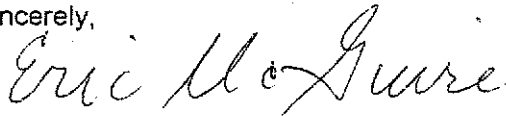
The Department of Corrections (DOC) has demonstrated a need for increasing the condemned inmate portion of its state prison system. Whether it is constructed in Marin County or elsewhere, the demand for water is a necessary component. With the construction of the proposed project, and the completion of the ongoing toilet retrofit project, future water demand at San Quentin Prison will

be no greater than at present. It appears that completion of the toilet retrofit program and commencement of the condemned inmate complex would overlap. There would be virtually no change in the demand on the District's existing supply.

Regardless of how existing demand is reduced, the simple fact is that if a retrofit reduction of existing facilities is achieved that would equal the projected demand for the proposed project; the impacts on MMWD water use would be less than significant.

If you should have any questions about these comments, please contact me at 415-945-1586.

Sincerely,

A handwritten signature in cursive script that reads "Eric McGuire".

Eric McGuire,
Environmental Services Coordinator

Letter 8

Marin Municipal Water District

Eric McGuire

October 29, 2004

- 8-1** The comment states that characterization of Marin Municipal Water District (MMWD) facilities and water demand projections for the project are accurate. The comment also states that with implementation of the toilet retrofit program underway at SQSP, the project would not significantly increase water demand levels at SQSP, and the project's impact on District water use would be less than significant. This comment is acknowledged. Although realized water demands at SQSP with implementation of the project would likely be equal to or less than existing water demands as a result of implementation of a toilet retrofit program, the project (at maximum capacity) would exceed established water demand thresholds (i.e., 100 acre-feet per year). The Draft EIR concluded, therefore, that water demand impacts would be significant, and feasible mitigation was recommended. However, even with recommended mitigation, the project would not reduce water demands below existing thresholds and, therefore, this impact would remain significant and unavoidable. Also, please see response to comment 9-28.

With the H-Unit conversion (described in Section 1.5 and Master Response 3), the total maximum number of inmates at SQSP (with the project) would be reduced by 800, which would result in a corresponding decrease in water demands. The net effect on water demand is complex, because, as stated in the Draft EIR and in the comment, SQSP is retrofitting its toilets to reduce water consumption at existing SQSP. This retrofit is expected to reduce overall water consumption at existing SQSP (based on 5,763 inmates) to 626 acre-feet per year (AFY). This is an equivalent of 97 gallons per inmate per day (gpid). As described in Section 1.5 of this document, the total maximum inmate population at existing SQSP would be 5,150 under the proposed project, which is 613 inmates less than the current population.

Using the demand factors described in the Draft EIR (page 4.11-7) and above, overall water use for SQSP under maximum capacity conditions, including the CIC, would be 766 AFY. This includes using the higher, "planning level" water consumption estimates for the CIC of 175 gpid, which is substantially higher than both historic SQSP water consumption (140 gpid) and the conservation level of consumption following retrofit of the toilets (97 gpid). It is fully expected that, with the use of modern plumbing devices that restrict water flow, actual water consumption associated with the CIC would be less. Estimated water demands for SQSP and the CIC, at maximum capacity, are described in Table 8-2.

Table 8-2		
Projected Water Demands for the SQSP and CIC with the H-Unit Conversion		
Baseline Water Use at SQSP ¹		626 AFY
Reduction in Water Use from H-Unit Conversion	= (800 inmates) × (97 gpid/inmates)	(87 AFY)
CIC Water Demands	= (1,408 inmates) × (175 gpid/inmates)	227 AFY
Total Water Use, Maximum Capacity		766 AFY
¹ Assumes conservation is in place as described on page 4.11-16 of the Draft EIR. gpid = gallons per inmate per day mgd = million gallons per day AFY = acre-feet per year		

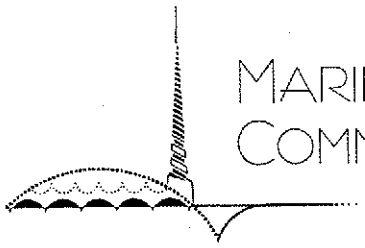
The net increase in water consumption associated with the proposed CIC, which now includes conversion of the H-Unit, would be 140 AFY (227 AFY – 87 AFY). Mitigation measure 4.11-g on page 4.11-24 of the Draft EIR would reduce water consumption at the CIC by between 20 and 60 AFY. If the CIC was capable of achieving more than a 40 AFY savings, the net increase in water consumption would be less than 100 AFY, which is MMWD's threshold of significance. Because it is not known if this higher level of conservation could be achieved, CDC concludes that the impact to water supply would be significant and unavoidable, as stated on page 4.11-29 of the Draft EIR, even though consumption would be substantially less than reported in the Draft EIR at 766 AFY for SQSP plus the CIC.

Furthermore, the total expected maximum water use of 766 AFY is 95 AFY less than SQSP's entitlement with MMWD, 187 AFY less than water consumption at SQSP in 2003.

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CEQA Compliance



MARIN COUNTY
COMMUNITY DEVELOPMENT AGENCY
ALEX HINDS, D.W. 100

November 10, 2004

Ms. Cher Daniels
Supervising Environmental Planner
Department of Corrections
Box 942883
Sacramento, CA 94283-0001

SUBJECT: Comments on Draft Environmental Impact Report for the Proposed Condemned Inmate Complex at San Quentin State Prison

Dear Ms. Daniels:

Thank you for providing Marin County with the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Condemned Inmate Complex (CIC) at San Quentin State Prison (SQSP). Marin County Staff has reviewed the DEIR and respectfully offers the following comments to assist the California Department of Corrections (CDC) in preparing an EIR that:

- provides a legally adequate and complete document in compliance with requirements of the California Environmental Quality Act, (CEQA), for
- fully discloses significant environmental impacts, and
- enables an informed decision on the project.

General Comments

Our review has concluded that the DEIR has several major deficiencies that render it fundamentally inadequate such that meaningful public review and comment is effectively precluded. In general these include:

1) The project description is inconsistent with the Notice of Preparation project description and is not accurate and consistent throughout the EIR, shifts among different project descriptions and mischaracterizes, omits, and/or and confuses the full extent of the underlying real project being considered by the CDC. The DEIR breaks a larger project into components to avoid analyzing it as a whole, fails to acknowledge reasonably foreseeable future components or activities, and fails to acknowledge evidence that significant effects might occur, resulting in a number of instances where potential significant impacts are ignored and not evaluated, or are underestimated.

2) The statement of project objectives is too narrowly defined to allow an understanding of the real scope of the project and appears to be directed at unreasonably limiting the consideration of project alternatives,

3) The DEIR fails to consider a reasonable range of project alternatives, including on-site and off-site alternatives that are reasonable and feasible, that would meet stated project objectives and could substantially reduce significant and unavoidable impacts of the project as proposed,

4) The DEIR uses various inconsistent, shifting, confusing, and erroneous environmental setting baselines for existing facilities and activities on the project site to measure impacts throughout topical sections of the DEIR,

5) The DEIR fails to discuss inconsistencies between the proposed project and applicable general plans and regional plans as mandated by CEQA and supporting California Government Code provisions for presentation to a jurisdiction for determination of a proposed public project's consistency with plans applicable to the jurisdiction where the project is located,

6) Required studies and environmental evaluations by relevant regulatory agencies have not been completed to adequately disclose in the DEIR the full extent of potential project impacts on regional resources and provide for consideration of significant project effects in their full environmental context as required by CEQA,

7) Mitigation recommended by the DEIR includes instances of deferred mitigation involving future study and development and disclosure of mitigation in the future after project approval, contrary to the requirements of CEQA and relevant case law. Clear reasons to defer mitigation are not stated, commitment to realistic performance standards that ensures there will be mitigation, and measures to prevent the project activity unless performance standards are satisfied have not been provided in several of the "future" mitigations recommended for important project impacts,

8) The cumulative impact analysis evaluates impacts based on a list of projects in the project vicinity as provided by CEQA. However, in view of the scale and intensity of this project development and its influence on and likely inconsistency with the planned and projected future land uses in the vicinity of the project site, it is equally important in this case to evaluate the potential significant cumulative effects this project could have on surrounding land uses projected in relevant County and community planning documents, as also provided by CEQA cumulative analysis requirements. The cumulative analysis fails to assess these important cumulative considerations.

Each of these general issues is discussed in greater detail with further explanation and supporting examples cited from the DEIR, in the comments listed below with number sequence corresponding to the items listed. Following that, additional comments on individual topical issues in the DEIR are listed with reference to relevant topical section page numbers in the DEIR.

Correction of the noted major deficiencies in the DEIR will necessarily require the addition of substantial new information and studies, including revisions in the project description and evaluation of additional new impacts and alternatives, in order for the EIR to be legally adequate and in compliance with CEQA. In such instances, State CEQA Guidelines Section 15088.5

provides that in order to allow adequate opportunity for meaningful comment, the DEIR must be revised and recirculated as a new DEIR with the same notice and comment period afforded the original DEIR. Due to the conflicts between the project as described in the Notice of Preparation and the project identified in the DEIR, recirculation of a revised Notice of Preparation for review and comment will need to precede preparation and recirculation of the revised DEIR.

Detailed discussion of major deficiencies

- 1) CEQA requires a stable, accurate, and finite project description as the fundamental basis for an adequate EIR. Neither the NOP or EIR project description provide this. The NOP states the project condemned inmate complex (CIC) will be constructed on 30 acres on the project site. This significantly conflicts with the DEIR project description which states that CIC will encompass 40 acres. The project description is a virtual shell game of conflicting, inaccurate and misleading inmate housing capacity figures and fails to clearly identify or evaluate the full scope of the substantial proposed project expansion of the existing prison capacity in addition to the proposed capacity of the proposed CIC. Existing facility "budgeted capacity" is given as 5,763 inmates. The project description states CDC proposes to continue operation at the 5,763 inmate capacity without giving any verification of budget limit on physical capacity or budget data that evidences the actual budget limit that would control inmate capacity. Historical data in the DEIR shows inmate capacity from 1997 to 2003 that fluctuates dramatically on a quarterly basis, ranging from a minimum of 5,434 to a maximum of 5,940. Contrary to the project proposal to limit expansion to budgeted capacity, historical data clearly shows that this number has been exceeded in the past and is clearly not a real limit as to inmate capacity.

Physical capacity is stated as 6,200 inmates. The new CIC design capacity is 1,024 cells with 384 of these allowed for double bunking, giving a total CIC capacity of 1,408 inmate beds. With displacement of an existing 250 minimum security beds currently on the CIC construction area, the CIC is stated to add 1,158 beds to the existing capacity. The DEIR does not present figures correctly calculating the existing 6,200 physical capacity plus the new CIC 1,158 capacity for a revised maximum capacity total of 7,358, but instead unaccountably states a totals maximum capacity of 7,380 proposed as the project for evaluation in the EIR, representing a total expansion of prison capacity of 1,617 over claimed budgeted capacity and a real project expansion of 459 additional general population/reception inmate capacity in addition to the proposed new CIC capacity. Expansion of the existing facility capacity is triggered by the CIC project component. This represents an unaccounted 50% inmate capacity increase in comparison to new CIC capacity and an approximate 25% expansion over existing prison general population inmate beds of 1,900. The DEIR fails to clearly acknowledge the foreseeable expansion of the existing facility by 459 inmates and the impacts of these additional inmates are not evaluated.

Further, the project description first identifies 600 existing condemned inmates currently at the prison, increasing at a rate of 25 new condemned inmates per year, and identifies an approximate two-year schedule to construct and make the new CIC available for occupation. This should provide a projected maximum of 650 condemned inmates to fill the new CIC on completion, but the project description then erroneously calculates a projected increase to

700 condemned inmates in that same period to occupy the new CIC. The DEIR projects a 25-30 year capacity accommodation yet the residual capacity after including the projected condemned population at the time of completion in reality provides only 18 years condemned inmate capacity using the DEIR's assumption of an average incarceration rate of 25 inmates per year. Also, the 25-year rate assumption is not accurate in that there has been marked decline in condemned commitments since 1999. CDC data shows that from a peak of 42 in 1999, the incarceration rate declined sharply to 17 commitments in 2002, while CDC and DPIC data shows from 16 to 21 commitments in 2003 and one for January of 2004.

- 2) The DEIR's objectives statement cites only a project objective of safely and securely housing current and projected condemned inmates at SQSP as a matter of law. The statement of project objectives fails to also identify the project objective for the reasonably foreseeable substantial prison expansion proposed to accommodate the maximum cell inmate capacity at SQSP at 7,380 inmates. CEQA case law provides that project objectives cannot be so narrowly construed to evade consideration of reasonable alternatives but that is what this DEIR does (see discussion of inadequate alternatives below).

Throughout the DEIR are statements that because State law requires that the condemned population be housed and executed at San Quentin options regarding offsite relocation have been deemed infeasible. While the law may currently state this, it is hardly a certainty. Whether to expand or close SQSP has been debated at many levels for at least 20 years and vacillations in the political climate over that time have resulted in changes of opinion as much as the many studies done over the years. Further, as noted in the DEIR, the legislature has already authorized housing condemned inmates, albeit under limited circumstances, at other facilities such as CSP-Sacramento and CMF. CDC data also indicate condemned inmates housed at other locations such as CSP-Corcoran. There have been studies in the recent past, including the State Auditor's study, that have evaluated as feasible the moving of the condemned population to other locations. Thus, it is far from 'infeasible' to relocate some or all of the prison's programs elsewhere and for that premise to be carried forth in the DEIR results in a failure to acknowledge a reasonably foreseeable change in the law requiring condemned males to be housed at SQSP.

One basis for argument to build the CIC at San Quentin is raised in several places in the DEIR that access to the Supreme Court, legal counsel, and services to inmates dictates that an urban location is necessary for the CIC. In the study prepared by the State Auditor neither the Attorney General nor Supreme Court had any objection to having a condemned facility at a location other than San Quentin. Further, this policy falls flat when condemned female inmates are housed in Chowchilla, hardly an urban area meeting the above criteria. Was the basis for this factor that the male condemned population requires additional access and services that condemned women do not?

The DEIR included one of the factors that locating the CIC at another location was the expected public opposition. If this an expected outcome elsewhere, why does the DEIR not account for certain opposition for a facility as San Quentin? Nonetheless, CEQA does not require consideration of public controversy not related to physical environmental effects as a determinant of feasibility of an alternative.

- 3) The DEIR alternatives analysis is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment is precluded. The DEIR has ignored several reasonable and feasible basic alternatives that must be evaluated if the EIR is to meet minimum requirements for informed decision making. The current evaluation of alternatives is so unreasonably curtailed, fundamentally flawed, erroneous and conclusory that it renders any real or meaningful consideration of them or their impacts in comparison to the project impossible. These alternatives will need to be reevaluated and their conclusions revised to be factually accurate and supportable.

The offsite location analysis is clearly wed to the concept of a new, stand-alone facility on a completely vacant site. The proposed project is recommending using modified versions of CDC's standard '180' housing unit. Because the project contemplates using modified '180' units at SQSP, modifying '180' units currently located at other facilities is a reasonable and feasible alternative that must be evaluated in the DEIR.

The DEIR fails to provide analysis of a feasible alternative for constructing the new CIC adjacent to an existing facility where it could lessen the need for additional support facilities over a stand-alone facility and reduce the acreage needed for a new CIC facility to 75 acres from 200 acres. The DEIR also fails to contemplate the reduction in demand for prison facilities due to Proposition 36 and that existing facilities could accommodate not only the condemned population but the general and reception inmate population as well. The 200-acre requirement is for a new facility but there is no analysis for a 75-acre site that would be required if constructed on the site of one of the 32 existing correctional facilities, several of which likely have more than adequate space to accommodate the CIC that would not require the reduction in standards contemplated to fit the CIC on half the 'minimum' area.

A feasible reduced project alternative that must be considered in the DEIR is to decommission the existing aging and decaying facilities at SQSP and construct a smaller new safe and secure single story CIC on approximately 75 acres of the existing SQSP 432 acre site to accommodate condemned inmate capacity needs for as much as 2,550 inmates. On completion, the facility would house a projected existing 650 condemned inmates and could be backfilled by existing general population/reception center inmates as existing facilities are demolished and still provide potential for 75 to 100 years of condemned inmate capacity at San Quentin in full conformance with the DEIR stated objectives and current law to house the condemned at San Quentin. The general population inmates at SQ would be phased out to other institutions over time. The reception center function could be relocated to a location more central to all of the major north state metropolitan areas, (Sacramento and Bay Area), such as the existing CMF, CSP-Solano, or other facilities. (The reception center was in fact originally located at CMF and transferred, initially on an interim basis, to SQSP in the 1980's to accommodate a major expansion of the CMF facility. The CMF has hospital and psychiatric facilities integral to the reception center function). The remaining SQ land would be surplus and sold to reimburse financing for the project and the lands ultimately converted to uses consistent with the San Quentin Vision Plan. This reduced project alternative would be environmentally superior to, and would substantially reduce impacts and potentially eliminate significant, unavoidable impacts of the proposed project.

Primary consideration must be given to the San Quentin Vision Plan/Relocation of SQSP Alternative and the alternative reevaluated, conclusions revised, and accurate, factually supported considerations and conclusions presented in the DEIR. The current DEIR alternative attempts to incorporate Vision Plan concepts, but patently mischaracterizes the policies and feasibility of the Vision Plan. This is because the analysis uses as a baseline for the alternative is a hybrid of the 2001 Department of General Services study and the Vision Plan. The Vision Plan was drafted to address a variety of challenges facing not only Marin, but also the Bay region as a whole including providing affordable housing, housing near transit, and a multimodal transit hub to provide connections with other parts of the region. The DEIR's analysis completely ignores and misconstrues for this alternative one of the key premises of the Plan outlined in Policy BE 1.6 which states: "The number of residential units may increase or decrease depending on how well the specific plan will ensure that project impacts do not exceed specified baseline levels occurring at the time a project is considered." This policy statement was explicitly included to address the potential for increased impacts. It is clear that the DEIR assumes and models conventional suburban development and its associated impacts and traffic generation rates. That is not what the San Quentin Vision Plan is recommending. The alternative analysis erroneously assigns far greater impact than what actual the goals and policies of the Vision Plan would provide. Specifically:

- The discussion about projected overcrowding and the need to relocate programs currently offered at San Quentin and associated costs is significantly out of date. As noted above, costs cited to construct replacement facilities do not account for the passage of Proposition 36 which has diverted several thousand potential inmates away from the correctional system, estimated by one source to be 7,055 inmates in the past two years. The surplus space available as a result of the effects of Proposition 36 and facilities such as Delano II coming online renders this cost estimate inaccurate. The DEIR fails to account for this situation and the resulting lower costs.
- The traffic assumptions fail to address the chronic housing shortage in the Bay Area and its impacts on traffic congestion. With projected growth in employment and population in the region, not providing housing units at this site means that local workers will need to secure housing elsewhere in the region, most likely at its fringes which in turn has significant impacts on regional arteries such as U.S. 101 and Interstate 80. Use of this site for housing could potentially reduce impacts on regional arteries by providing housing close to employment. Adding employment to this site without providing any additional housing and, under the single-level option, removing housing creates significant impacts because of the likelihood of prison staff commuting from outside the area and impacting already congested highways. The County and several cities have adopted non-residential housing requirements for commercial developments to provide housing as part of any non-residential project in response to the housing crisis. While the State is clearly exempt from this requirement, the DEIR's assumption that the local housing stock is adequate to house projected staffing is absurd: there is insufficient housing affordable to the existing workforce.

- The land use and cultural resources sections statements about only retaining the cellblocks is incorrect. The policies under Objective BE-6, "Respect on-site historical resources that tell the story of the prison's history", advocate retaining the maximum number of historic structures to retain the overall character of the prison complex with some kept in state as historic resources that tell the story of the prison while adaptively reusing others to maximize the opportunities to preserve the structures.
- As discussed above, there is not a 'similar' benefit between the Vision Plan recommendations and the project. Not providing housing for the new staff and possibly removing existing housing means that the workers will be commuting in from elsewhere, most likely far from the site because of the inability of the average prison worker to afford housing locally.

Therefore, the DEIR needs to revise the conclusions of the San Quentin Vision Plan/Relocation of SQSP alternative to disclose the fewer environmental impacts and potential real benefits of this alternative in comparison to the proposed project.

- 4) Conflicting project capacity baselines are cited in the NOP and DEIR and various other capacity baselines are used throughout the DEIR analysis. The NOP (11/2003) states that today SQSP houses approximately 5,850. The NOP later states that SQSP is currently operating at its budgeted capacity of 5,763 (a difference of 87 inmates). Which is it? CEQA provides for measurement of significant impact as the difference between the baseline and the proposed project. CEQA Guidelines Section 15125 states that the environmental setting at the time of the NOP will normally constitute the baseline physical conditions used to determine whether an impact is significant. The DEIR project description proposed to employ the 7,380 capacity as the baseline for evaluation in the DEIR analysis. However, the analysis does not carry this out. For example, the DEIR water and wastewater technical study uses a maximum inmate capacity of 5,940 (not 5,763 or 7,380). Water rate of flow is calculated in gallons per inmate per day (GPID) based on 90% of inmate capacity water demand (equivalent to water demand only for 5,346 inmates). Wastewater rate of flow, in GPID is based on 92% of water demand, is equivalent to the wastewater actually produced by only 5,464 inmates. Clearly, neither of these analyses used the baseline figure of 7,380 inmates the DEIR stated would be used thus greatly underestimating the water supply and wastewater effects of the real project.

Traffic analysis in the DEIR is based on 5,809 total inmates and 1,612 employees plus an added 648 employees for the CIC but ignored the 459 additional inmate capacity inherent in the 7,380 inmate capacity. The DEIR states budgeted inmate capacity is 5,763 with current employment also at 1,612. Traffic analysis looked only at employee and construction trips and ignored reasonably foreseeable additional employee and visitor trips for the 459 additional inmates or any visitors to CIC inmates. Further, increased traffic congestion impacts related to potential additional scheduled executions has not been analyzed for expanded CIC capacity.

Other sections in the DEIR admit to ignoring even the 7,380 baseline in their analysis as not applicable (Visual, biology, Land use, Cultural Resources, Public Services, hydrology,

noise). Even though expansion to 7,380 would clearly require reasonably foreseeable additional retrofit and upgrade to existing facilities, add additional facilities such as lighting, and additional operation support and service activities that would have both direct and indirect impacts for these topical issues. None of these potential impacts are evaluated in the DEIR

- 5) Both CEQA and the Government Code require analysis to determine consistency with local and regional plans. Further, the project sponsor is required to present the project proposal to local agencies and other regional planning agencies with adopted plans which encompass the project area for a determination of consistency with those local and regional plans. CEQA Guidelines Section 15125 provides that the consistency determinations shall be included in the DEIR. This is regardless of whether the project sponsor is exempt from local land use regulations. The DEIR has only identified some local community and regional plan policies but has failed to provide any comprehensive consistency determination as required by CEQA. To correct this deficiency the CDC will need to present its project proposal to the Marin County Planning Commission and Board of Supervisors for their determination of consistency with Plans in order to incorporate the determination of plan consistency in the DEIR
- 6) The DEIR is also premature in that it has not had initial review and mitigation measures identified by regulatory agencies with authority over the proposed project. For example, there are statements that the project meets all BCDC requirements when, in fact, there is nothing in the DEIR from BCDC to indicate that the requirements have been met. The BCDC-appointed design review body makes a determination of the project's overall acceptability, its effects on resources, and its suitability for approval. Once this review process is completed, the determination of the affected agency is incorporated in to the DEIR analysis with appropriate mitigations suggested.

As discussed in the traffic section, no analysis has been done on regional impacts by submitting the project information to the Marin County Congestion Management Agency for their review, as required by law. Additionally, the State Historic Preservation Office (SHPO) must be consulted for a review and determination of cultural impacts and feasible mitigations in the DEIR. Consultation in and of itself is not a mitigation measure. A consultation process must also be established with local Indian tribes and Natural Heritage Commission for determination of potential spiritual or sacred ground significance and must be included in the DEIR.

- 7) Mitigation identified for the massing and color of the facility is deferred to future consultation with BCDC. Design consultation is required with BCDC prior to preparation of the DEIR as a regional agency with project oversight and in compliance with CEQA requirements. Future consultation with the Department of Fish and Game and U.S. Fish and Wildlife Service is also proposed to address mitigation measures.

The proposal for subsequent geotechnical studies to determine the site's susceptibility to liquefaction and other geotechnical hazards is unacceptable in that it does not provide a means to analyze potential impacts or offer appropriate mitigations in the DEIR. Further, it

is inconceivable how a suggested project cost can be arrived at when potential costs for a suitable foundation are unknown without the geotechnical study to identify existing conditions.

Using a demonstration desalination plant as mitigation for a long-term demand projection is illegitimate. The DEIR fails to address what other mitigations would be necessary in the event that the desalination program being undertaken by MMWD does not meet expectations. Paying a 'correction fee' if entitlements are exceeded does not address where the additional water will come from if MMWD is unable to secure new sources of water.

- 8) The DEIR acknowledges land use planning documents relevant to the project site but does not analyze cumulative impacts on surrounding land uses and policy documents affecting these areas. Specifically, land use in the area surrounding the prison is regulated by:
- Marin County: Marin Countywide Plan (1994), Draft Marin Countywide Plan (2004), San Quentin Village Land Use Policy Report, the Kentfield-Greenbrae Community Plan
 - San Rafael: General Plan (currently adopted and revision draft), East San Rafael plan
 - Larkspur: Larkspur General Plan

The DEIR needs to also analyze the impacts of the project in conjunction with the ultimate implementation of these plan policies.

Individual Comments on DEIR Topical Sections

Visual Resources

The DEIR acknowledges significant visual impacts in many instances from the various viewpoints but offers no potential mitigations. The single-level option removes an existing topographic feature, denudes the area of all vegetation, probably the most important being the screening provided by the trees and shrubs along East Sir Francis Drake Blvd. The stacked design option offers more of a buffer but obstructs views to the water and from the water, in conflict with BCDC Policy 4.

Impacts to the residents of the Monahan Pacific property now under construction in the City of Larkspur have not been analyzed. This residential community will overlook the site from the west and visual impacts from the project, particularly the lighting need to be addressed.

It is stated in the view analysis that there is a beneficial impact of improving views to the bay from East Sir Francis Drake with the single-level design option. This is achieved through obliteration of existing vegetation, removal of a hill, and demolition of existing homes. The perceived benefit is not clear when the project will replace these features with a tall fence and large buildings.

Air Quality

Pg. 4.2-8 – pm2.5 impacts are not adequately evaluated, monitored or significance discussed in the DEIR. No consideration of cumulative effects of pm2.5 with the nearby San Rafael Quarry is considered. Recent studies of Quarry air quality indicate potential significant pm2.5 concerns.

Pg. 4.2-16 – Toxic air emissions from construction grading and earth disturbance activities of contaminants on site are not evaluated or mitigation considered.

Biological Resources

Pg. 4.3-10 – The project has not evaluated the substantial light and noise impacts the project would have on the Corte Madera Preserve or special status species.

Pg. 4.3-14 – Electric fence mitigation proposed is future study and future mitigation that is unacceptable pursuant to CEQA and case law. Future consultation to determine impacts and mitigation criteria is not mitigation. Action taken “to the extent feasible” does not disclose feasible mitigation.

Land Use, Planning, Employment and Housing

Pg. 4.4-1 – The DEIR states that conflict with local plans and policies could potentially result in environmental impacts, but fails to evaluate local plans or determine whether there are conflicts. CEQA requires an examination and determination in the DEIR of project consistency with local plans. It is not relevant whether or not the project site is regulated by such plans. The project could significantly impact local planning and the future activities in the area as designated by the plans.

Pg. 4.4-7 – The threshold of significance for plan conflict is erroneous and conflicts with CEQA. Exemption from local jurisdiction is not a threshold criteria. See CEQA Guidelines Section 15125.

Pg 4.10-6 – The employment analysis cites the maximum proposed capacity of 7,380, but fails to consider the increase in existing number of employees required to serve this capacity.

Pg. 4.4-8 – The statement that the project would not affect surrounding land uses is utterly false and conclusory. The proposed massive project expansion significantly conflicts with regional and local plans and policies and will substantially impact existing and future surrounding uses provided in those plans, particularly those involving the San Quentin Vision Plan and the CWP BFC zone as noted elsewhere in these comments.

The loss of employee housing is not just a social impact, but contributes to direct, indirect and cumulative impacts to traffic, air quality and other resources.

Execution protests can be expected to increase in frequency commensurate with CIC growth and will foreseeably increase in size and scope as executions increase.

The DEIR contradicts itself in stating that there is a sufficient employment base locally and an 'ample housing supply' yet 49% of employees at San Quentin commute from Solano County and beyond the Bay Area. Further, the economic data supplied, such as median home price, is irrelevant because it is significantly out of date. With the 2004 median home price in the Bay Area above \$450,000 for every county except Solano (\$377,000) someone at the top range of the Correctional Officer position (\$4,885 per month plus \$175 bonus) would only be able to buy a home in Solano County. This would indicate that new staffing for San Quentin would mean substantial commutes for workers through one of the most congested corridors in the state.

The stacked design option compounds this problem by forcing another 57 workers to commute. It is also clear that having to pay a \$175/month bonus to correctional officers to work at San Quentin further indicates that the statements that there is a sufficient local employment base and housing affordable to a prison worker is false. Cumulatively, this is hardly a less-than-significant impact and needs to be addressed with valid data.

Hazardous Materials

Pg. 4.7-7 – The determination that the project will have less than significant impacts to the public and environment is conclusory and fails to consider the air quality effects of hydrocarbon and other contaminants and clean up and pm2.5 piggyback transmission.

The DEIR cites removing ALL hazardous soils from SQSP (not just what was identified at the CIC site) and states that there are no other known areas of contamination within ¼ mile of the project site. However, the DEIR fails to address concerns raised in the 2001 DGS report that identified likely soil contamination and potential underground migration of toxics from the industry shops area and how this would be mitigated.

Evaluation and determination of hazard impacts is left to future study. The mitigation is future mitigation based on future study. No reason for deferral of impact analysis is given, no mitigating performance criteria are provided and no measures are provided to ensure that project activities will not be undertaken unless performance standards are satisfied. Mitigation is also inadequate in that it doesn't address the secondary impacts of remediation and transport or additional grading for removal.

Water Quality

Pg. 4.8-6 – Water quality impacts and mitigation has not considered secondary or indirect impacts of hazards remediation.

Noise

Pg. 4.9-15 – Mitigation to redirect PA speakers to the extent feasible is not mitigation to less than significant.

Noise generated from I-580 is irrelevant as the San Quentin Ridge separates this site from the freeway.

Public Services and Utilities

The DEIR acknowledges the impacts of the CIC on the water supply. Solutions identified include a retrofit program and partial funding for a desalination plant. The DEIR indicates that funding for the retrofit is in the process of being secured but is not a certainty while the desalination plant is a demonstration project being conducted by Marin Municipal Water District and has not been determined to be a viable long-term water source. The DEIR relies on a speculative source for water without any fallback source should the desalination program be abandoned.

Pg 4.11-16 - Evaluation of water supply fails to consider the proposed maximum capacity of 7,380.

It is unclear how a tripling of electricity consumption with a 25% increase in the inmate is considered below the threshold of significance. Not only is the absolute increase substantial, but simplifying the consumption on a per-inmate basis results in current consumption being approximately 0.45Kw/inmate whereas with the addition of the CIC cumulative consumption would be 1.06Kw/inmate and for the CIC alone would be 3.62Kw/condemned inmate. Regardless of whether PG&E has the ability to serve the expansion, this level of consumption will lead to cumulative impacts on the ability of the state's energy grid to meet peak demand loads which the DEIR fails to analyze.

Government Code Section 14660 requires solar energy equipment be installed on all State buildings where feasible but the DEIR does not address this requirement. Further, the visual simulations do not reflect the installation of photovoltaic or other solar energy equipment on the roofs of the complex.

The DEIR does not address nor does the design reflect Executive Order D-16-00 which sets a goal for all new State buildings to be modeled after LEEDS certification and sustainable building concepts.

Pg 4.11-2 -- The analysis of police protection fails to consider the increased number and size of execution events for the expanded CIC.

Traffic

The proposed trip generation provided by the consultant does not add up with a staff of 648, visitors, and deliveries. The DEIR uses the antiquated notion of a 'peak hour' when the three 'peak hour' periods along East Sir Francis Drake continue for several hours each throughout the day, and coincide with two of the prison's shift changes. The traffic counts and volume/capacity ratios are less than actual counts and therefore render a determination of no significant impact erroneous.

The traffic analysis is invalid in that the numbers used for its modeling do not reflect any accurate, stable, and finite project description. Further, the traffic analysis has not been run through the County's traffic model for impact analysis. CDC is required to submit its proposal to the Marin County Congestion Management Agency (CMA) for modeling and impact analysis as the CMA implements the Regional Transportation Plan (RTP) of the Metropolitan Transportation Commission in Marin County and to which the State is not exempt. The DEIR is required to include the outcomes of any impacts and associated mitigation measures.

West Gate is not within the corporate limits of Larkspur. County of Marin standards and thresholds should be used for analysis at this location. The DEIR fails to suggest suitable mitigation for this intersection: just because it's already operating at LOS F doesn't entitle this project to make it worse.

Page 4.12-3 – The “Existing Transit Network” section fails to provide a description of the GGBHTD Route 40 which travels between San Rafael and Richmond. This route has both west and eastbound stops at the I-580/Main Street interchange and is heavily used by visitors to SQSP. This route should be researched and included in this section. A significant barrier for these bus patrons is the lack of a sidewalk along Main Street.

Page 4.12-6 – The “Existing Parking Facilities” section also fails to describe the use of on-street parking along Main Street by visitors to SQSP. Many visitors prefer to park on the public streets rather than within the prison facility where their vehicle and belongings are subject to random search and seizure. This has resulted in a burden to the San Quentin Village community and subsequent initiation of a residential permit parking zone with a one-hour time limit for non-permitted vehicles.

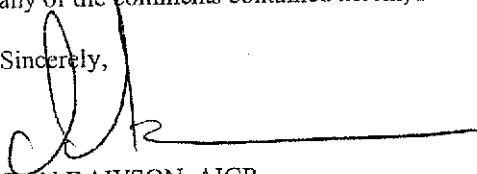
Page 4.12-27 – The “Significant Impacts That Can Be Mitigated to a Less Than Significant Level” section should account for traffic and parking impacts on Main Street in San Quentin Village and should include a statement relating to the Marin Countywide Plan.

Restricting construction hours, especially the hours cited, is unrealistic and unclear as to how such a measure would be enforced. It would force construction hours into the very early morning or well into the evening. If this is a serious mitigation measure, the DEIR needs to also analyze the noise and lighting issues that would result from shifting the construction hours as well as what actions would be taken to address the arrival and departure of trucks carrying supplies or moving soil.

On behalf of Marin County, thank you for the opportunity to comment. We look forward to receiving a copy of a revised and recirculated Draft Environmental Impact Report that is legally adequate pursuant to CEQA and that has a specific project proposal analyzed and alternatives that accurately reflect current conditions and policies. Please identify the approval process for this project and notify Marin County within a reasonable timeframe in advance of any proposed action to certify the EIR or approve the project. We also request timely receipt of a copy of any

Notice of Determination filed for the project. If you have any questions or need clarification of any of the comments contained herein, I can be reached at this office.

Sincerely,

A handwritten signature in black ink, appearing to be 'Dan Dawson', with a long horizontal line extending to the right.

DAN DAWSON, AICP
Senior Planner

c: Board of Supervisors
Alex Hinds, Director, Community Development Agency
Mark Riesenfeld, County Administrator
Tim Haddad, Environmental Coordinator

Letter 9

Marin County Community Development Agency

Dan Dawson

November 10, 2004

- 9-1** The comment is prefatory to subsequent comments in the letter. Please refer to responses to comments 9-2 through 9-64.
- 9-2** The comment states that the project description is inconsistent with the Notice of Preparation's (NOP's) project description, is not accurate and consistent throughout the EIR, and the project is broken into components to avoid analyzing its significant impacts. No specific instances of inaccuracy or inconsistency are provided in the comment, so no further response can be provided.
- 9-3** The comment states that the project objectives are too narrowly defined to allow an understanding of the project scope and this limits the consideration of project alternatives. CDC disagrees. Section 15124 of the State CEQA Guidelines provide that the "statement of objectives should include the underlying purpose of the project." As clearly stated on pages 3-1 through 3-11 of the Draft EIR, SQSP is not designed to safely and securely accommodate the more than 600 condemned inmates currently housed at SQSP, and this number is projected to grow by 25 condemned inmates per year. The California Penal Code (Sections 3600 and 3603) requires CDC to house all condemned inmates at SQSP (with few exceptions; see footnote 1 on page 3-2 of the Draft EIR). Thus, the objectives of the project revolve around providing housing for these inmates in a manner that meets CDC's safety and security guidelines, and include housing these inmates at SQSP as required by law. Although these objectives (and others listed on page 3-2 of the Draft EIR) are specific, they are only narrow insofar as the underlying purpose of the project is narrow.
- The comment does not provide any rationale as to why the objectives are too narrowly defined, so no further response can be provided. Please see, also, Master Response 1.
- 9-4** The comment states that the Draft EIR fails to consider a reasonable range of project alternatives that would meet project objectives and could substantially reduce significant and unavoidable project impacts. The comment does not specify why the alternatives considered were not sufficient so no additional response can be provided. Please see Master Response 1 for a discussion of the alternatives considered in the Draft EIR.
- 9-5** The comment states that the Draft EIR uses inconsistent and incorrect information in establishing baselines, but does not provide specific examples. No environmental issues are raised so no response can be provided.
- 9-6** The comment states that the Draft EIR fails to discuss inconsistencies between the project and applicable general plans and regional plans applicable to the jurisdiction where the project is located. CEQA requires that EIRs "discuss any inconsistencies between the proposed project and applicable general plans and regional plans" (CEQA Guidelines Section 15125[d]). This is distinctively different than discussing inconsistencies between all plans in a jurisdiction in which a project is located, particularly in this instance, where the state owns the project and the project site, and by law is not bound by local general plans and local zoning. In short, if an agency does not have jurisdictional authority, their plans would not be applicable to CDC's actions.

With this as a backdrop, the Draft EIR discussed plans that are applicable to the project (e.g., see discussion of the Bay Conservation and Development Commission's Bay Plan on pages 4.4-3 through 4.4-4, and the Regional Water Quality Control Board's Water Quality Control Plan on page 4.8-4 of the Draft EIR). The Draft EIR also discussed plans from agencies with no jurisdictional authority over the project or the site, including Marin County (see discussion of the adopted Marin Countywide Plan on pages 4.4-4 through 4.4-5 and 4.4-9 through 4.4-10; the draft 2004 Draft Marin Countywide Plan on pages 4.4-5 through 4.4-6 and 4.4-10, and the adopted Point San Quentin Land Use Policy Report on pages 4.4-6 and 4.4-10 of the Draft EIR), the City of Larkspur, and the City of San Rafael.

The comment does not specify which applicable general plans and regional plans were not considered so no further response can be provided.

- 9-7** The comment states that required studies and environmental evaluations by relevant regulatory agencies have not been completed to adequately disclose the environmental impacts of the project. No specific environmental issues are raised, so no further response can be provided.
- 9-8** The comment states that mitigation recommended by the Draft EIR includes instances of deferred mitigation involving future study, but does not indicate where in the EIR this occurs. Therefore, no response can be provided.
- 9-9** The comment states that although the cumulative impact analysis evaluates impacts based on a list of other projects in the vicinity, because of the scale of the project, the EIR should also evaluate the cumulative impacts the project could have on surrounding land uses projected in relevant County and community planning documents.

The Draft EIR, in Section 4.4, evaluates the consistency of the project with adopted and proposed plans. As indicated on page 4.4-8, the project would not be incompatible with on-site or off-site land uses in the vicinity of the project site, and no evidence to the contrary has been presented in this or other comments. The project would be consistent with the BCDC's Bay Plan (see page 4.4-9 of the Draft EIR). Marin County has applied general plan land use designations to the SQSP site in its adopted Countywide Plan (see page 4.4-4), but these land use designations are inapplicable because the site is owned by the State. If the site continues to be used as a prison, the County's land use designations would not affect future development of the site. Thus, if the project is built, there would be no cumulative land use effects associated with development of the site in the Marin Countywide Plan because the land uses in the County's plan would not be built if the prison is built. This rationale also holds for the County's proposed San Quentin Vision Plan, included in the 2004 Draft Marin Countywide Plan. If the project is built, the proposed Vision Plan (if it is ultimately adopted) would not be, thus the project would not result in cumulative impacts with this plan or the existing plan insofar as land uses on the site are concerned. The County also has jurisdiction over San Quentin Village, adjacent to the east side of the prison, but this area is fully built out, so no cumulative impacts from future land use development in this area would be expected. The City of Larkspur General Plan designates the area adjacent to the west gate of SQSP (and adjacent to the project site) as parkland, and that use is currently in place (Remillard Park). Northwest of the project site, the land is designated for low-density residential development and is under development with 47 dwelling units. This project is listed in Table 5-1 (Drakes Way/Drakes Cove) and is considered in the cumulative analysis in Section 5.0 of the Draft EIR.

As described on page 5-11 of the Draft EIR, the project would not contribute to cumulative land use impacts when considering adjacent jurisdiction general plans. The discussion above

summarizes the rationale for this conclusion and demonstrates, contrary to the comment, that the Draft EIR considered the cumulative effects of the project on surrounding land uses in relevant planning documents.

- 9-10** The comment states that each of the general issues discussed in comments 9-1 through 9-9 is discussed in greater detail in later comments. Responses to each of the comments are provided where relevant below.

The comment also states that the Draft EIR must be recirculated for public review. The responses to comments provided below and in the remainder of this Final EIR clarify and amplify the information included in the Draft EIR. Recirculation of a Draft EIR is required if a new significant impact that has not been previously disclosed would occur; if there is a substantial increase in the severity of an environmental impact, unless reduced through adopted mitigation measures; if a feasible alternative or mitigation measure considerably different from those analyzed in the Draft EIR would clearly reduce project impacts but CDC chooses not to adopt such a measure or alternative; or if the Draft EIR was fundamentally flawed (State CEQA Guidelines Section 15088.5). No evidence has been presented in this or in any other comments to suggest that any of these conditions have occurred.

- 9-11** The comment states that the project description provided in the Draft EIR and NOP conflict and cites a description of the size of the project site, 30 acres in the NOP and 40 acres in the Draft EIR, as evidence.

SQSP is located on 432 acres (see page 1 of the NOP). The NOP states that the project would be located on the southwestern portion of the prison property, on approximately 30 acres (of the 432 acres), and that the project would include 1,024 cells capable of housing up to 1,408 condemned inmates. Following preparation of the NOP, CDC refined the preliminary layout of the project. The refinement resulted in the larger size, approximately 40 acres, but the project would remain on the southwestern portion of the 432 acre SQSP property. The facility would be in the same location as shown in the NOP, but on a larger footprint.

The purpose of an NOP is to announce that an EIR is being prepared on a project and to solicit comments on the significant environmental impacts, alternatives, and mitigation measures that a responsible agency or member of the public would like to see explored in an EIR. (State CEQA Guidelines Section 15082). The NOP followed the procedural steps required by CEQA, and the change in the size of the project site is not substantive in context of the purpose of an NOP; the significant environmental impacts of the project and the magnitude of these impacts were not changed or otherwise altered by the change in the footprint. Furthermore, there is no recirculation requirement in CEQA for an NOP, even in those circumstances where a project is substantially different. The interested public and public agencies are afforded the opportunity to determine if the significant environmental issues they are concerned with are addressed in a draft EIR, which follows in time the NOP. Even if the project is changed after the NOP, the public is not deprived of the ability to meaningfully comment on the environmental impacts, alternatives, and mitigation measures for a project.

- 9-12** The comment states that the Draft EIR does not present figures correctly in regard to budgeted capacity and calculating the existing 6,200 physical capacity, plus the new CIC 1,158 capacity, for a revised maximum capacity total of 7,358. The comment also states the Draft EIR fails to clearly acknowledge the foreseeable expansion of the existing facility by 459 inmates.

With respect to budgeted capacity and CDC's intent to operate existing SQSP plus the project at the current budgeted capacity of 5,763, the Draft EIR states that this is CDC's intent. However, this is a goal and it can change as conditions change in the prison system (more or less overcrowding) and in response to the goals of different administrations (i.e., under different governors and CDC leadership). The budgeted capacity is not based on a physical constraint at SQSP. Rather, it is a budgetary limit authorized by the Legislature that specified the number of staff positions that are funded to SQSP, based on a budgeted capacity for the institution. Thus, CDC felt that in addition to analyzing the project at the budgeted capacity, it should also evaluate a foreseeable worst-case condition (i.e., maximum capacity).

The Draft EIR states that approximately 6,200 inmates could be housed at SQSP, without making any substantial building modifications. This maximum-capacity scenario was evaluated not because CDC intends to operate the prison this way, but because fluctuations in inmate population levels, sometimes exceeding budgeted capacity levels, do occur; thus, a maximum-capacity inmate population is a reasonable foreseeable condition. CDC would much rather operate SQSP at an inmate level closer to the physical design capacity (3,300+ inmates) of the facilities, but this is not an option under current and projected systemwide overcrowding conditions and lack of alternatives for housing inmates elsewhere. Operation of SQSP at the 6,200-inmate capacity level does not represent an "expansion" of existing SQSP. Rather, this is the number of inmates that could be placed at SQSP under current facility conditions; that is, no project (i.e., construction of new facilities) would be involved.

Even though CDC can house up to approximately 6,200 inmates at SQSP without conducting additional CEQA analysis (no new construction or governmental approvals are involved so CEQA compliance is not required), and even though there are no plans by CDC to operate the prison at this overcapacity level, CDC decided to disclose the impacts of housing this many inmates, plus the inmates at the proposed CIC, and to base the environmental impact analysis and proposed mitigation measures on the difference between the existing budgeted capacity (5,763 inmates) and the maximum SQSP (approximately 6,200 inmates) plus maximum CIC inmates (1,408, less the 250 existing inmates that would be displaced by the CIC). This is a highly conservative (worst-case) approach, resulting in the likely overstatement of the extent of inmate population-based impacts and resultant mitigation measures. That said, CDC intends to base its commitment to mitigation measures on this conservative analysis.

The 7,380-inmate total used to represent maximum inmate totals is an approximate number; 7,358 (22 inmates less) is the precise level of maximum inmates that could be housed at SQSP and the proposed CIC, as follows:

- CIC: 1,408 inmates (new beds constructed)
- Inmates displaced by CIC: -250 (existing beds demolished)
- SQSP maximum capacity under existing conditions: approximately 6,200 (maximum existing beds)
- SQSP maximum capacity with CIC as proposed in Draft EIR: approximately 7,358 (1,408 - 250 + 6,200)

This totals the 7,358 inmates noted in the comment, but the EIR based its maximum inmate population-based analysis on the difference between 7,380 inmates and 5,763 inmates, the current operating level, or the addition of 1,607 inmates.

However, this maximum capacity has now been revised (to 6,558 total maximum capacity inmates) because of the proposed conversion of the H-Unit. Please see Section 1.5 of this document and Master Response 3.

- 9-13** The comment states that the Draft EIR erroneously calculates a projected increase of condemned inmates to occupy the CIC based on a rate of 25 new condemned inmates per year and a 2 year construction schedule. The comment states that the Draft EIR does not project the future accommodation capacity correctly at 25–30 years but should be 18 years using the same rate of new condemned inmates per year. The comment states that the 25-per-year rate assumption is not accurate because historical data show a marked decline in the number of condemned inmate commitments from 42 commitments in 1999, 17 commitments in 2002, and from 16 to 21 commitments in 2003.

It is unclear what environmental issue is addressed by this comment. Factually, an average of 29 people per year have been sentenced to be condemned in California between the years of 1978 and 2002. Of that total, an average of 24 persons per year are housed long term at SQSP, the rest having died, had sentences overturned, and so on. CDC cannot, with certainty, predict how many people will be condemned over the next 20 years, but past records suggest that the addition of 25 persons per year on the average to the CIC is based on the best available data.

Regarding the future capacity of the CIC, the Draft EIR acknowledges (page 3-11) that SQSP currently houses approximately 600 condemned inmates (as of the date of the NOP, published on November 26, 2003) and that condemned inmate populations levels would be projected to increase at a rate of 25 per year (page 3-17). The proposed CIC is expected to be operational by January 2008 and, therefore, by the time construction is complete the condemned inmate population would have increased by 100 condemned inmates (approximately 4 years from publication of the NOP). Consequently, the Draft EIR indicated that the population of condemned inmates would be projected to be 700 inmates at the time of occupation (page 3-17). Based on these projections, the population would grow from 700 inmates to full capacity in around 28 years, which is within the range of 25–30 years described in the Draft EIR (page 3-13).

- 9-14** The comment states that the Draft EIR objectives only cite the project objective of safely and securely housing current and projected condemned inmates, and that this objective does not address an objective to house 7,380 inmates.

For a discussion of the project objectives (there are four), please see response to comment 9-3 and Master Response 1. The comment appears to imply that expansion of existing main SQSP facilities would be required to house the maximum capacity of 7,380 inmates with the CIC (actually, 7,358 beds; see response 9-12). This is not the case. The main SQSP can currently house approximately 6,200 inmates, and 5,950 inmates if the Ranch is removed. The proposed CIC would add an additional 1,158 inmate beds, resulting in a maximum capacity of approximately 7,380 inmates. Therefore, beyond construction of the CIC, no additional construction or expansion of the CIC would be required to house the maximum capacity of inmates (i.e., 7,380).

With the H-Unit proposal (described in Chapter 3), the maximum capacity of SQSP would be reduced by approximately 800 inmate beds. Therefore, the residual maximum capacity of SQSP would be approximately 6,558. Please refer to Master Response 3.

- 9-15** The comment is critical that the Draft EIR relies on existing law with respect to where condemned inmates can be housed to narrow the consideration of relocation of the project.

The proposed project is to build a condemned inmate complex (CIC) at SQSP. The desire expressed in the comment, and by others who have expressed a desire to relocate SQSP and the project to somewhere out of Marin County, is noted.

The CIC is proposed to be constructed at SQSP in accordance with legislation passed in 2003. As described in Master Response 1, CDC is legally prohibited from relocating condemned inmates (with the exception of very few, see footnote 1 on page 3-2 of the Draft EIR and the discussion which follows) from SQSP. CDC has sought, on several occasions in the past, to relocate some or all of its condemned inmates to other facilities. According to the California State Auditor (2004), CDC sponsored a bill to allow the department to house certain condemned inmates at one of its prisons in Corcoran. This bill died in a Senate subcommittee. CDC sponsored a bill in 2001 to allow the department flexibility in transferring certain condemned inmates to one of its prisons in Folsom. The Legislature responded by amending the bill to limit the transfer to 15 inmates. Other recent actions by the Legislature included \$33 million in funding for seismic upgrades that have been completed at SQSP, and cutting funding in 2001 that would have allowed the California Department of General Services to continue studying potential reuse of SQSP.

Thus, while the statement in the comment, that legislation to keep the condemned population at SQSP is not a certainty, is arguable, the actions of the Legislature, including the funding of the proposed CIC at SQSP, suggest that such considerations are speculative and thus do not warrant consideration as feasible alternatives in the EIR. Nevertheless, although not required by CEQA in this case, the EIR evaluated alternatives that considered relocation of some or all of SQSP facilities. Please refer to Master Response 1 and Section 7.0 of the Draft EIR.

- 9-16** The comment contends that the Draft EIR states that access to the Supreme Court, legal counsel, and services to inmates dictates that an urban location is necessary, and this argument is cited in several places in the Draft EIR.

Citations to these discussions in the EIR are not provided in the comment, so direct response is not possible. The EIR focuses on the impacts of the proposed project, and does not justify why the project should or should not be built. A brief reference is provided in Section 7 of the Draft EIR that explains that off-site locations would not be feasible without legislative authorization, and that relocation is further made difficult because of the proximity of the legal infrastructure (Public Law Office, other legal services) that has been established to provide services to this unique prison population. The comment makes reference to the California State Auditor Report (2004), and this report does include the various factors cited in the comment, as well as other factors, that describe why moving the condemned population to another location has its challenges. The Auditor's report also does mention the situation with the female condemned inmate population being in a more rural location, but notes that the population of condemned inmates is small (15) and the site is located near a metropolitan area (Fresno) that can provide services to the population. Nevertheless, these are all arguments over the merits of the project and not comments on the environmental impacts of the project.

- 9-17** The comment states that the Draft EIR included a provision stating that one of the factors against locating the CIC at another location was expected public opposition. The comment acknowledges CEQA does not require consideration of public controversy not related to physical effects on the environment as a determinant for analyzing a project alternative.

Citations to these discussions in the EIR are not provided in the comment, so direct response is not possible. The comment may be referring to discussions in the California State Auditor's report, which does state that CDC has land available at other institutions that could accommodate the

proposed CIC, but “other factors such as wastewater and water capacity, severe recruitment and retention difficulties, community opposition, flood plains, and habitat preservation would limit the feasibility of using most sites.” (California State Auditor Report 2003-130, 2004, page 40)

The comment is accurate in stating that public controversy not related to physical effects on the environment is not a determinant in analyzing an alternative, and the Draft EIR only considers feasible alternatives that would reduce the significant effects of the project.

9-18 The comment states that the Draft EIR ignores several reasonable and feasible alternatives and the current evaluation of alternatives is fundamentally flawed. No specific issues concerning the analysis in the Draft EIR are raised in this comment. Please see responses to comments 9-19 through 9-22.

9-19 The comment suggests that using a design similar to the project and co-locating facilities is a reasonable alternative that should be evaluated in the Draft EIR.

CDC operates 32 prisons throughout California (California State Prison, Delano will be the 33rd when it is operational, planned for the Spring 2005). It is likely that there is adequate space at some of these prisons to accommodate the proposed CIC. The environmental impacts of co-locating the facility would probably be less in most or all instances than the impacts of locating it on a new, undeveloped site (the impacts of placing the CIC on an undeveloped site are discussed in Section 7.4 in the Draft EIR). Depending on the location, such an alternative may have greater or lesser impacts than the proposed project. Each potential site would need to be examined and evaluated to determine the various impacts of such an alternative, then the impacts would need to be compared to the project.

This alternative would not be feasible for purposes of CEQA. As discussed above and in Master Response 1, as well as in several areas of the Draft EIR, the proposed CIC is legally required to be on the grounds of SQSP, if it is constructed. Under current state law, CDC cannot relocate its condemned inmates to another location; they must be at SQSP. As described in Master Response 1, an EIR is required to evaluate a reasonable range of alternatives, and a factor that must be considered in the rule of what is reasonable is if an alternative is feasible. Factors that play into feasibility of an alternative include regulatory limitations (CEQA Guidelines Section 15126.6[f][1]), and legal considerations (CEQA Guidelines Section 15091[a][3]). An EIR is only required to “...examine in detail the” alternatives “that the lead agency determines could feasibly attain most of the basic objectives of the project.” Because the suggested alternative would not be feasible and would not attain most of the basic objectives of the project, it need not be considered further than it is herein.

9-20 The comment states that the Draft EIR fails to analyze a feasible alternative for constructing the project adjacent to an existing facility where the need for additional support facilities over a stand-alone facility would be lessened. The comment also states that the Draft EIR fails to contemplate the reduction in demand for prison facilities resulting from Proposition 36 and that existing facilities could accommodate the condemned population, general population, and reception inmate population as well.

Please see response to comment 9-19 regarding co-location at an existing facility and moving the condemned inmate population away from SQSP.

The comment does not provide any substantiation in support of the claim that the condemned population and entire population of San Quentin could be relocated to another facility. The

existing SQSP facilities and operations are not part of the proposed project, so an alternative that would relocate inmates from existing SQSP has no relationship to the impacts or objectives of the project. Furthermore, CDC does not have available cells at other institutions for the existing inmate population at SQSP. Although the Substance Abuse and Crime Prevention Act (SACPA) of 2000 (Proposition 36) is intended to reduce the incarceration of nonviolent drug offenders, and ultimately reduce prison population and operation costs (UCLA 2004), in spite of its enactment, CDC's statewide inmate population is at an all-time high. Only approximately one-quarter (25%) of offenders who agreed to participate in the SACPA program completed treatment, and this completion rate is comparable to non-SACPA criminal justice clients (UCLA 2004).

The statewide CDC inmate population has grown from approximately 141,000 inmates in 1996 to approximately 164,000 at the end of 2005. In the past year the inmate population has increased by 2,548. Most importantly, CDC has a shortage of maximum-security beds. According to CDC estimates, CDC will have a shortage of approximately 5,083 maximum security beds at the end of 2005 even with the planned opening of the new prison in Delano. The State Auditor's report also cites the difficulty of moving high-security inmates into facilities designed to handle lower-level inmates, and the chain reaction of shuffling inmates to lower-security facilities if the maximum-security inmates displace them to other prisons. Simply, there are not enough beds in appropriately secure facilities to accommodate inmates under current conditions, and there are no projections that suggest this will change in the future. See the State Auditor report, previously cited, for more information on this issue.

- 9-21** The comment describes a reduced project alternative to decommission the existing SQSP and construct a smaller safe and secure single-story CIC, and to convert the remaining SQSP land to uses prescribed in the San Quentin Vision Plan.

Please see response to comment 9-20 and Master Response 1. As described, the current statewide inmate population levels are at their highest total ever, so the theory that all or most inmates can be transferred to other facilities implies that CDC would either need to severely overcrowd other facilities to a greater level than current conditions or would need to construct new facilities elsewhere. Overcrowding results in security concerns; as facilities are more and more overcrowded, inmates must be placed in facilities less well suited to secure operations. The only available solution at times is for CDC to house inmates into gymnasiums, often triple bunked, or in other facilities not designed for this use. If new facilities need to be constructed to accommodate these inmates, these facilities would need to be evaluated under CEQA, considered, approved, funded and constructed. As it now stands, CDC is proposing to convert 800 beds of the H-Unit (see Section 1.5) to warehouse uses, and the displaced inmates will need to be housed at the vacated cells currently used by condemned inmates at SQSP, or will need to be moved to another institution, as described in Section 1.5.

CDC has thoroughly investigated the potential to rehabilitate SQSP to accommodate the growing condemned inmate population safely and securely, and has found it to be infeasible (see Master Response 1 and page 7-4 of the Draft EIR). If the comment is recommending removing existing SQSP from the site and replacing it with the CIC, then the same issues regarding where the existing inmates would be placed would be unresolved. Furthermore, significant impacts associated with removing buildings that are historically significant would result. The existing SQSP is not part of the proposed independent CIC project, except to the extent that existing condemned inmates currently housed in the SQSP facilities and their associated demands (i.e., water, wastewater treatment) at SQSP would be moved to the CIC. The existing SQSP is part of the existing condition, and the proposed project is evaluated for its impact on SQSP and the other components of the existing condition. Moreover, the continued operation of SQSP is an integral part of CDC's overall statewide planning for prison facilities, and decommissioning it would have impacts that would ripple through the entire

system (i.e., overcrowding of facilities, placing inmates in facilities not designed for their security level, etc.). An alternative that appears to be similar to this alternative is evaluated in Section 7.5 of the Draft EIR, and was found to be infeasible. The alternative considered in the Draft EIR would have transferred all inmates to other locations and would not have kept the CIC on the project site, so there are differences in the impacts as compared to this alternative.

The claim, in the comment, that a co-located CIC and urban transit village would be environmentally superior to the proposed project is not supported by any evidence. The EIR evaluated the San Quentin Vision Plan/Relocation of SQSP Alternative, which would only have the urban transit village at SQSP (the prison facilities would be moved), and found that impacts on some resource areas at and adjacent to the SQSP site were environmentally superior to the project, and some impacts were greater. Nothing in this comment suggests that impacts would be less than evaluated in the Draft EIR for San Quentin Vision Plan/Relocation of SQSP Alternative, and some, such as traffic, would be greater.

Finally, with regard to decommissioning existing SQSP, this alternative would not avoid any of the significant unavoidable impacts of the project (visual resources, cultural resources, water) that are not already substantially reduced by mitigation measures included in the EIR. Visual impacts would be substantially reduced by mitigation measures discussed on page 4.1-18 and in Master Response 2. Further, impacts to visual resources would not be altered by this alternative; no evidence has been proffered that indicates visual impacts could be reduced or avoided by decommissioning SQSP. Further, water supply impacts are substantially reduced by imposition of mitigation measures in the EIR and are further reduced by the conversion of H-Unit and installation of conservation devices at existing SQSP. Unavoidable cultural resource impacts would likely be greater with this alternative, whereas the proposed project (if the stacked version is selected) might completely avoid this impact. No other significant impacts would be avoided that would not already be mitigated to a less-than-significant level by decommissioning SQSP. Finally, it must be recognized that, given the overall intent expressed in comment letter 9, i.e., redevelopment of SQSP with an urban village, any theoretical impacts that could potentially be reduced by decommissioning SQSP (and no such impacts have been identified in the comment) may very well cause new and greater impacts through construction of an urban village. It would not be an accurate comparison to consider one (decommissioning SQSP) without the other (replacement with an urban village).

- 9-22** The comment states that primary consideration needs to be given to the San Quentin Vision Plan/Relocation of SQSP Alternative and that the alternative should be reevaluated and the conclusions revised. The comment states that the analysis in the Draft EIR is erroneous.

Regarding feasibility of the Vision Plan, see Master Response 1. As stated, it is infeasible. Regarding evaluation of the “correct” version of this infeasible alternative, the San Quentin Vision Plan is in draft form, and the analysis in the Draft EIR was a good-faith effort aimed at disclosing its potential impacts. Marin County is in the process of updating its countywide general plan, and the San Quentin Vision Plan is included within the general plan. The draft EIR for the countywide plan was not available at the time CDC released the Draft EIR for the CIC, and the County’s draft EIR is still not available for review.

Because the County’s version of the Vision Plan is subject to interpretation and it is an infeasible alternative to the project, the analysis of the Vision Plan as an alternative in the Draft EIR is broad and is not detailed. It is based on information available at the time the Draft EIR was released, which included the draft policies in the County Vision Plan and the referenced Department of General Services study.

For instance, one of the objectives of the County's Vision Plan is:

“OBJECTIVE BE-5: Promote improvements to nearby arterials and freeway systems that increase the convenience of the ferry terminal.

Policy BE-5.1: Redesign the I-580/East Sir Francis Drake interchange to allow for access from both directions of I-580, which may impact the lands of the Central Marin Sanitation Agency.

Policy BE-5.2: Consider other off-site freeway improvements such as reconstruction of the I-580/East Sir Francis Drake interchange and improvements at 101/580 to reduce cut-through traffic on East Sir Francis Drake Blvd” (Draft Vision Plan, September 2003)

Comment 9-22 states that the analysis in the CIC Draft EIR is incorrect because it does not consider Policy BE 1.6: “The number of residential units may increase or decrease depending on how well the specific plan will ensure that project impacts do not exceed specified baseline levels occurring at the time a project is considered.” The comment states that the Draft EIR assumes standard suburban traffic generation rates.

It is unclear from Policy BE 1.6 what is meant by specified baseline levels, but it is evident from Objective BE-5 and the related policies that sufficient traffic would be generated to require improvements to several freeway interchanges.

The Draft EIR states that the Transit Village could generate up to 15,900 trips per day, based on data in the Department of General Services report, but states clearly that this does not account for trip reductions resulting from smart growth. Typical “suburban” development assumes traffic on the order of 8 to 13 trips per dwelling unit. The lowest number of units that would likely be developed under the Vision Plan is 2,100 units, plus the site would contain a transit hub and provide limited employment. Although it is acknowledged that 15,900 may not account for proposed smart growth concepts, it also represents only 7.5 trips per unit, and this does not account for transit and employment trips. See page 7-16 of the Draft EIR. This is not an unreasonable assumption. At the same time, the Draft EIR is evaluating only an alternative to the CIC, and an alternative that has been declared in the Draft EIR to be infeasible. The information provided is sufficient for decision makers to understand that the Vision Plan is a draft, is in a planning stage, proposes significant development of the site, and is likely to generate substantially higher levels of traffic and its associated effects than does the project. The comment provides no specific information by which a different conclusion can be drawn.

- 9-23** The comment states that the prison overcrowding data is out of date and suggests that Proposition 36 has diverted several thousand inmates from the correctional system.

Proposition 36 may have resulted in diversions of nonviolent drug offenders from CDC prisons (UCLA 2004), but at the same time the overall population at CDC's prisons has continued to rise, including a rise in violent offenders. It can only be concluded at this time, then, that whatever diversions have resulted from Proposition 36 have helped CDC avoid even worse overcrowding that is currently occurring. Please see response to comment 9-20.

- 9-24** The comment suggests that the site could help regional housing shortages and could reduce regional commutes if it were redeveloped for housing. The comment also suggests the Draft EIR concludes there is sufficient housing for future project employees, but does not cite a page reference to this statement.

Regarding traffic assumptions used in the EIR, the traffic analysis used existing SQSP employee residential zip code data to determine trip distribution patterns to and from SQSP and the local and regional roadways that are used by existing employees. This trip distribution data was then applied to the trips generated by the project to determine impacts. Because a majority of existing employees reside outside Marin County, trip distribution patterns (generated based on residential zip code data) reflect regional commute patterns and are reflective of lack of available affordable housing within the County.

With regard to housing for project employees, the EIR only concludes that housing costs in Marin County are sufficiently high that it is unlikely project employees would be able live in the county, that no single county would receive a substantial enough number of new residents as a result of the project, and that it would not result in the substantial development of replacement housing elsewhere in surrounding counties. For these reasons the project would not significantly affect the regional housing stock. The generalized comments provided by the comment regarding housing shortages restate a well known fact in California. No information is provided, however, to suggest the conclusions reached in the EIR are not correct. Please see page 4.10-8 of the Draft EIR.

- 9-25** The comment states that the cultural resource discussion about only retaining the cellblocks in the San Quentin Vision Plan is incorrect.

As stated on page 7-14 of the Draft EIR, the most historic structures on the site would be retained, but approximately 200 structures would be removed according to the draft Vision Plan. The draft Vision Plan states the following:

“OBJECTIVE BE-6: Respect on-site historical resources that tell the story of the prison’s history.

Policy BE-6.1: Preserve, at a minimum, the oldest cellblock and the death row/sally port buildings.”

Based on this statement in the draft Vision Plan, the Draft EIR analysis of the Vision Plan alternative is accurate.

- 9-26** The comment suggests that project employees would need to commute from long distances, and that the Vision Plan should be considered environmentally superior with respect to housing.

Appendix G of the State CEQA Guidelines describes what is considered to be a significant impact on housing, and this discussion is repeated on page 4.10-6 of the Draft EIR. In short, a significant impact would occur if a project would displace significant numbers of housing units, resulting in the need to construct replacement housing elsewhere; substantially decrease housing supplies; or result in the need for replacement housing, the development of which would cause significant impacts. The EIR acknowledges that up to 57 houses, owned by CDC and used by CDC employees, could be removed by the project under the single-level design option, but does not conclude this to be a substantial number of housing units, given the regional context, and does not therefore conclude this to be a significant loss in housing. Nor would there be the need for substantial new housing, given the large housing market in surrounding counties relative to the number of new employees. Please see pages 4.10-7 through 4.10-8 of the Draft EIR. No new evidence is provided in this or in other comments that suggests the information relied on in the Draft EIR is incorrect.

- 9-27** The comment states that there are conflicting baselines (the environmental condition against which the project’s environmental impacts are compared) in the NOP and the Draft EIR, based on different inmate counts. The comment states that this results in underestimation of the water supply and wastewater effects of the project.

As the comment correctly points out, CEQA Section 15125 states “the environmental setting will normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.” The environmental setting is “the physical environmental conditions in the vicinity of the project, as they exist at the time the NOP is published.” Therefore, the project’s impacts are compared to conditions present at the site when the NOP was published (i.e., November 2003).

The comment appears to conclude that there is a conflicting and alternating baseline used throughout the Draft EIR because of different population numbers cited in the NOP and Draft EIR.

The NOP indicated that SQSP currently houses approximately 5,850 inmates. The NOP also indicated that SQSP is budgeted by the Legislature to operate at an inmate capacity of 5,763 inmates, which is referred to as SQSP’s budgeted capacity. As described in Master Response 3, inmate population levels at SQSP and all CDC institutions fluctuate on a monthly and daily basis in response to local incarceration rates and a variety of other factors. It is common for SQSP to house more than its budgeted capacity if local demand requires this; however, this condition is usually temporary (i.e., 1 to 2 months). The NOP simply pointed out the fact that at the time of its publication (November 2003) SQSP housed a greater number (i.e., 87 more inmates) of inmates than was budgeted by the Legislature. SQSP, under current housing scenarios, has the ability to house approximately 6,200 inmates and can do so without legislative or other environmental approvals.

Regarding the baseline against which the project’s environmental impacts were determined, the EIR used the 5,763 inmate population level as the baseline where relevant. This population level is appropriate because it was the budgeted population level at the time the NOP was published, and it is a level substantially below the maximum number of inmates that could be or have been housed at SQSP. This population number allows for a more conservative analysis because the impacts of the project (i.e., impacts at a maximum capacity of 7,380 inmates) are compared to the environmental conditions associated with an inmate population level of 5,763 inmates.

Although under current conditions SQSP can house up to 6,200 inmates, comparing the project’s impacts against a higher baseline population level would not provide the most conservative impact analysis. As a consequence, CDC selected the conservative approach that would identify more substantial environmental impacts and requirements for a higher level of mitigation.

- 9-28** The comment states that the water analysis does not reflect worst case conditions.

The comment is correct that the Draft EIR only calculated the addition of the proposed CIC. This is a reasonable approach. The CIC is the proposed project. As discussed above, CDC can “fill up” existing SQSP to 6,200 inmates without conducting CEQA analysis; it is not considered a project under CEQA. Please see response to comment 9-27 regarding the use of baselines.

An analysis consistent with the approach used in the Draft EIR would have considered the increment of inmates between the budgeted capacity (5,763 inmates) and maximum capacity (6,200 inmates less the 250 Ranch inmates removed) and added the water consumption of these inmates to the water consumption of the CIC. Based on expected consumption factors (see

response to comment 8-1), this would have added approximately 20 AFY of water demand to the project. However, as discussed in response to comment 8-1, the conversion of the H-Unit makes this “correction” moot. As discussed, water consumption would be 87 AFY, less than reported in the Draft EIR as a result of the H-Unit conversion. CDC would continue to use the same measures to mitigate project impacts.

- 9-29** The comment states that the wastewater analysis does not reflect worst-case conditions. The comment appears to question whether the wastewater demands associated with maximum capacity (6,200 inmates) have been accounted for in the analysis. As described in response 9-29 and in Master Response 3, this issue is made moot by the conversion of the H-Unit. With the conversion, the maximum inmate capacity at SQSP would be less (5,150) than the current inmate count (5,763) at the existing facility.

- 9-30** The comment states that the Draft EIR analyzes only employee and construction trips and ignores reasonable foreseeable additional employee and visitor trips with maximum capacity at SQSP.

Please see Master Response 3. As described therein, an equivalent of 1,709 staff would be employed at SQSP if it were to operate at 6,200 inmates (less 250 Ranch inmates) (not counting the CIC), which is an increase of and equivalent of 97 employees, compared to staffing levels described in the Draft EIR (i.e., 1,612). As is done under current practices, this would have been a temporary population level and staffing would be provided by overtime, that is, the same person working two simultaneous shifts. Additional traffic generation would not be expected. More importantly, the conversion of H-Unit (i.e., removal of 800 inmate beds and 159 staff positions) reduces net staffing levels at maximum capacity at existing SQSP to be 1,550, which is 62 less staff than evaluated in the Draft EIR and used in the traffic analysis. Therefore, the traffic analysis presented in the Draft EIR provides a conservative, and overstated, estimate of project-related traffic impacts and no revision to the analysis would be required. Furthermore, CDC is committed to mitigating the traffic impacts identified in the Draft EIR at the higher impact level. Please refer to Master Response 3 for a more detailed discussion of staffing calculations.

Regarding visitor trips to SQSP, the traffic analysis used data from traffic counts collected at the east gate (where visitors access SQSP) to account for existing visitor trips and project future visitor trips associated with the CIC. Please refer to Appendix G of the Draft EIR. Regardless, because CDC intends to operate SQSP at its current budgeted capacity (i.e., 5,763), visitor trips to SQSP are not anticipated to substantially increase above existing conditions.

- 9-31** The comment states that the Draft EIR ignores potential impacts associated with building modifications and facility changes associated with adding inmates to existing SQSP.

SQSP can accommodate up to approximately 6,200 inmates under current conditions. As discussed in the response to comment 9-27, population totals fluctuate each month at SQSP. No discretionary project decisions are involved in this population fluctuation unless they relate to construction of new facilities that would increase capacity. None would be required at SQSP to house up to 6,200 inmates. Therefore, no additional analysis is required in the Draft EIR.

- 9-32** The comment states that the Draft EIR did not meet CEQA and Government Code requirements for presenting the project proposal to local agencies and other regional planning agencies. The comment states that the Draft EIR fails to provide comprehensive consistency determination as required by CEQA and that CDC will need to present the project to the Marin County Planning Commission and Board of Supervisors for their determination of consistency.

Please see response to comment 9-6. As discussed, the Draft EIR fully complies with Section 15125(d) of the State CEQA Guidelines, and the comment does not identify anywhere in the Draft EIR where an applicable general plan or regional plan was not considered. As to the claim that CDC will need to seek a consistency determination from Marin County, the comment does not present any information as to why this is believed to be the case, especially in light of the correct acknowledgement within the comment that the project is exempt from Marin County land use regulations. This comment does not address the impacts of the project, so no further response can be provided.

- 9-33** The comment states that the Draft EIR is premature because responsible agencies had not reviewed the impact analysis or mitigation measures. As an example the comment states that BCDC review of the project is required before the Draft EIR conclusions can be reached.

The comment does not cite any section of CEQA that would require regulatory agencies to review the conclusions of a Draft EIR before it is submitted for public review. The purpose of submitting a Draft EIR for responsible agency and public review is to lay out the conclusions of the environmental impact analysis and proposed mitigation measures, and allow responsible agencies to comment on these conclusions. Nevertheless, as allowed, but not mandated by CEQA, CDC did consult with various responsible public agencies, as well as agencies with no jurisdiction over the project.

For instance, CDC met with staff of BCDC to discuss the project, whether BCDC would have jurisdiction over the project, and the methodologies being used in the Draft EIR to evaluate impacts to issues of concern to BCDC (particularly visual resources). As noted in comment letter 2, written by BCDC, staff of BCDC concurs with the analysis of impacts in the Draft EIR, states that they have no regulatory authority over the design of buildings, and they request that BCDC be given an opportunity to provide advisory review of the design of the project. The second mitigation measure under 4.1-u on page 4.1-18 states that CDC will consult with BCDC on project design.

- 9-34** The comment states that the Draft EIR did not analyze regional traffic impacts by submitting project information to the Marin County Congestion Management Agency (CMA) for review. The comment also states that the State Historic Preservation Office must be consulted to review the project and determine mitigation measures, and that consultation is not a mitigation measure. The comment states that consultation with the local Indian tribes and the Native American Heritage Commission (referred to as the Natural Heritage Commission in the comments) for determination of potential spiritual or sacred ground significance needs to be included in the Draft EIR.

Please see response to comment 9-33 regarding CEQA requirements for consultation in the preparation of a Draft EIR. Nevertheless, regarding traffic, copies of the Draft EIR were submitted to California Department of Transportation (Caltrans), the Association of Bay Area Governments, Bay Area Metropolitan Transportation Commission (a regional transportation planning agency), and the Marin County Department of Public Works, Traffic Operations (Attn: Jason Nutt) for review and comment consistent with the requirements of CEQA (Section 15086). The CMA is a function of the Marin County Transportation Department. Comments on the Draft EIR were received from Caltrans and Marin County. Please refer to comment letters 4 and 9, respectively.

Regarding historic resources, CDC undertook a field visit (November 8, 2004) and consulted with the State Historic Preservation Officer (SHPO) of the State of California Office of Historic Preservation (OHP) regarding the significance of impacts to employee residences and the

schoolhouse, as well as any other impacts. This consultation effort resulted in the determination that three buildings and one district on or adjacent to the project site were historically significant, as follows:

- Warehouse 4 (with warehouses 2 and 3, and building 50 built in 1904),
- Building 51 (old barn, built in 1913),
- Tower 5 (building T-5, built in 1946, would not be affected by the project), and the
- Valley Way Historic District, which includes the schoolhouse building (built in 1923) and staff residences 1–80 (built in 1902, 1923, and 1936).

With the exception of Building 51, these determinations are consistent with the analysis presented in the Draft EIR. Building 51 (old barn) was identified in the Draft EIR as lacking sufficient integrity and architectural quality to qualify for listing on the California Register of Historic Resources. However, based on a field visit by SHPO, this building was determined to represent the oldest agricultural building remaining on the SQSP grounds, and would appear to meet criteria for listing on CRHR. Consequently, demolition of this building would represent a significant impact. However, with the conversion of H-Unit, this building would not be demolished, and no impacts would occur. Section 4.5, “Cultural Resources,” has been revised to reflect the results of the consultation process with SHPO and changes resulting from the conversion of H-Unit. The entire text of Section 4.5 (with changes) is presented in Chapter 4.0, “Corrections and Revisions to the Draft EIR,” of this document. These changes do not alter the conclusions of the Draft EIR.

Regarding consultation, it is uncertain what the comment’s reference to consultation not being mitigation refers to in the Draft EIR. In several instances, such as with respect to historic resources, the Draft EIR lists several measures that CDC would commit to, as needed, and states that the measures would be refined through consultation with SHPO (see mitigation measure 4.1-4 in the Draft EIR). The Draft EIR has not deferred development of mitigation. Rather, it has identified the measures that will be implemented and states that these measures will be refined through the consultation process. Further, SHPO has sent CDC a letter concurring with the findings presented in the EIR. This letter is included in Appendix J.

As to consultation with local Native Americans and the Native American Heritage Commission, as described in several areas in Section 4.5 of the Draft EIR, no prehistoric or historic Native American sites or evidence of sites have been found on the project site and none are expected, given that nearly the entire site was marshland before being “reclaimed” in the 1800s. CEQA requires that EIRs “focus on the significant effects of the proposed project” (CEQA Guidelines Section 15126.2[a]). There is no need to consult on an issue that clearly is not significant. That said, the Draft EIR was sent to the Native American Heritage Commission, and they had no comments.

- 9-35** The comment identifies mitigation measures in the Draft EIR for future consultation with BCDC, Department of Fish and Game (DFG), and USFWS. The comment states that consultation with BCDC is required before preparation of the Draft EIR. Please see response to comment 9-33 regarding consultation that occurred with BCDC. The Draft EIR was submitted to DFG (see comment letter 3, in which the comment discusses environmental filing fees and oak trees). The Draft EIR was submitted to USFWS, and no comments were provided by that agency. As stated on pages 4.3-13 and 4.3-14, the Draft EIR includes mitigations aimed at reducing potential

impacts to biological resources, and CDC will consult with several agencies to refine the mitigation measures proposed, if needed.

- 9-36** The comment states that future geotechnical studies to determine geotechnical hazards do not provide a means to analyze potential geotechnical impacts.

The Draft EIR in Section 4.6 contains a full and detailed analysis of the potential impacts of the project with respect to seismic impacts, liquefaction, soil erosion, and so on. Section 4.6.4 lists several mitigation measures to reduce the significant impacts of the project, and identifies the need for design-specific geotechnical studies to refine the measures. All the measures included are standard in the construction industry, are technically feasible, and would reduce the significant effects of the project. This is adequate under CEQA; the impacts are identified and so are the specific mitigation measures. Design parameters to refine the mitigation measures will be developed if the project is approved. Public agencies are not permitted to commit public funds used for the design and implementation of a project before completion of CEQA (State Administrative Manual, Section 6850).

- 9-37** The comment states that CDC relies on a desalination plant for water as mitigation for long-term water demands and states that the Draft EIR fails to identify other mitigation measures in the event that the MMWD desalination program does not meet expectations.

This comment misinterprets the Draft EIR. As described on page 4.11-18, MMWD is proposing to construct a desalination plant to address long-term water demands. Because the proposed project contributes to the long-term water needs in the MMWD service area, it also contributes to the potential need for the desalination plant. Thus, the Draft EIR identified potential impacts associated with MMWD building the plant. A mitigation measure is included on page 4.11-29, wherein CDC, through its fees paid to MMWD, would pay its fair share of the mitigation costs of a desalination plant, should it be approved and constructed. But nowhere in the Draft EIR is there a statement that CDC or MMWD would rely on the desalination plant to serve the project. In fact, MMWD has stated, in its comment letter on the Draft EIR (see comment letter 8), that they do not believe the proposed project would have a significant impact on water supply because future water demand, with the project, would be less than current demand. See also response to comments 8-1 and 9-28 for a refined discussion on water use.

- 9-38** The comment states that the Draft EIR does not analyze cumulative impacts on surrounding land uses and policy documents associated with these areas.

Please see response to comment 9-9. As discussed, the Draft EIR does consider impacts resulting from development of the project and its effects on surrounding general plan land use plans. The project site is not close enough to the City of San Rafael to adversely affect land uses in that City. The City, in its comment letter on the Draft EIR, does not address this issue, thus must not, as the agency potentially affected by land uses adjacent to it, be in any disagreement over the approach or conclusions of the Draft EIR with respect to land use (see comment letter 10).

Regarding the statement that the Draft EIR should analyze the impacts of the project in conjunction with the ultimate implementation of these plans, no rationale is provided beyond this statement. In addition to the Draft EIR fully considering impacts of the proposed project on adjacent jurisdictions, the Draft EIR also conducted a detailed cumulative impact analysis that considered 30 projects that were recently completed, are under construction, have been approved, or had been proposed and were under review at the time the Draft EIR was initiated. In fact, the Draft EIR used a list of projects compiled by Marin County, a list that includes projects in the

County and in other jurisdictions in the County. This list, known as PropDev, is compiled by Marin County and has long been prescribed by the County and cities within the County for use in preparing cumulative impact analysis. Use of this list is consistent with the requirements for establishing a cumulative baseline, as described in CEQA (see Guidelines Section 15130[b][1]) and in controlling CEQA case law (see *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal.App. 3d 61 and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App. 4th 98.).

- 9-39** The comment states that the Draft EIR does not offer potential measures to mitigate significant visual impacts and states disagreement with analysis conclusions.

Please refer to Master Response 2, which addresses several comments raised pertaining to visual resource issues, and responses to comment letter 18, with respect to impacts to the Monahan Pacific property. With regard to mitigation measures, please see pages 4.1-18 and 4.1-19 of the Draft EIR, which include mitigation measures and their limitations.

Regarding views to the bay along Sir Francis Drake Boulevard under the single-level design option, the comment does not accurately reflect the conclusion in the Draft EIR. The comment refers to only a partial statement in the Draft EIR. The more full (but not entire) statement in the Draft EIR (page 4.1-14) is:

Unlike the existing SQSP buildings, which are also seen at different points along Sir Francis Drake Boulevard, the new buildings would be blockish, plain, and unremarkable. Although views of the Bay would be opened to drivers, the site character would substantially change, particularly with removal of Dairy Hill and the foreground residences. The balance between adverse effects of altering the somewhat open, undeveloped viewshed, including removal of Dairy Hill, and the benefits of opening views to the Bay are subjective. For purposes of this analysis, it is acknowledged that the project would beneficially open views of the Bay, but the change in the foreground/middle ground of the viewshed would be substantial and adverse. Therefore the impact would be significant.”

As clearly stated here, the analysis examines both the benefit of opening the views of the bay with adverse impacts associated with other changes in the viewshed and concludes that the impacts are significant.

- 9-40** The comment states that the PM_{2.5} impacts are not adequately evaluated or discussed in the Draft EIR. The comment states that no consideration of cumulative effects of PM_{2.5} associated with the San Rafael Quarry were considered.

PM_{2.5} emissions from a quarry are generally attributed to long-term operational activities (e.g., rock crushing). The project would not result in any long-term fugitive dust emissions. The only source of fugitive dust generated by project would be from short-term, temporary, construction activities (see page 4.2-14 of the Draft EIR). These short-term construction emissions are not considered significant emissions by the Bay Area Air Quality Management District (BAAQMD) if BAAQMD-recommended mitigation is recommended and implemented as part of the project, such as is the case for the proposed project (see Mitigation Measure 4.2-a, page 4.2-17 of the Draft EIR). The Draft EIR did specifically address PM₁₀ emissions (see page 4.2-1). PM_{2.5} is a subgroup of PM₁₀; made up of finer particles. Thus, the analysis of PM₁₀ would also apply to PM_{2.5}.

- 9-41** The comment states that the Draft EIR does not evaluate toxic air emissions from construction grading and earth disturbance activities.

The Draft EIR addresses potential impacts to construction personnel from contaminants on the project site on pages 4.7-6 through 4.7-8. Furthermore, the Draft EIR addresses potential diesel PM emissions (see page 4.2-16). Particulate exhaust emissions from diesel-fueled engines (diesel PM) were identified as a toxic air contaminant by the ARB in 1998. The Draft EIR concluded that because construction activities would be temporary, diesel PM would not result in the generation of diesel PM emissions that exceed the BAAQMD thresholds of significance.

- 9-42** The comment states that substantial light and noise impacts of the project on the Corte Madera Preserve and special status species have not been addressed.

Exhibit 4.1-3a in the Draft EIR depicts current nighttime lighting as seen from the Corte Madera marsh. Exhibits 4.1-3b and 4.1-3c depict simulated views of nighttime lighting from the proposed project (single-level and stacked options). As described on pages 4.1-10 and 4.1-11, the change in nighttime lighting at this location would not be substantial. Wildlife at this location would experience virtually the same nighttime lighting with the project as they do under current conditions. No impact would be expected. Furthermore, except during the construction period, noise from the project site would not be expected to increase over existing levels, especially at this distant location (approximately 1,600 feet at its closest location point to the site). Based on calculations of noise at closer locations (see the Draft EIR, pages 4.9-13 and 4.9-14), intermittent noise levels would not exceed 40 dBA, the same level as currently experienced and quieter than a loud whisper at 5 feet. Traffic noise near the marsh from adjacent roadways is louder. Thus, no impacts to wildlife from project operational noise are expected.

Regarding construction noise, the noise analysis identified rock drill operation as the loudest noise source that would result from project construction. Rock drills generate noise levels of approximately 96 dBA without implementation of feasible noise controls. With implementation of feasible noise controls required by Mitigation Measure 4.9-a, however, noise levels generated by rock drilling would be reduced to 80 dBA at a distance of 50 feet (Bolt, Beranek, and Newman 1971). At the nearest portion of Corte Madera Marsh, approximately 1,600 feet west of the project site, these noise levels would attenuate to approximately 50 dBA.

This noise level is lower than existing noise levels at the marsh, which is primarily influenced by noise from traffic on U.S. Highway 101 (U.S. 101). According to estimates made with existing annual average daily traffic volumes on the closest segment of U.S. 101 using FHWA's Highway Noise Prediction Model, the 60 dBA community noise equivalent level (CNEL) noise contour would extend more than 2,700 feet from the freeway. This 60 dBA CNEL contour would encompass all of Corte Madera Marsh. During the project's construction period, noise levels at the marsh would be considered nominal and would not result in any adverse effects on wildlife inhabiting Corte Madera Marsh.

- 9-43** The comment states that future study and mitigation for impacts from the project's electric fence are not acceptable under CEQA and case law, but does not cite where in the Draft EIR that there is such a reliance on future study.

CDC has developed a biological mitigation program, in consultation with DFG and USFWS, based on over 10 years of study, monitoring, adjustment of mitigation design to respond to monitoring, and so on. This program has lead to a Habitat Conservation Plan (HCP) and incidental take permits from USFWS and DFG in connection with potential loss of endangered wildlife from operation of electrified fences at 29 prisons throughout the state. Although take of endangered species is not expected to result from operation of the electrified fence proposed at the CIC, CDC is proposing to adopt the same mitigation measures (the three-tiered program listed

on pages 4.3-14 and 4.3-15 of the Draft EIR) it has used in connection with mitigation of impacts addressed in the HCP. CDC will consult with DFG and USFWS in refinement of the mitigation program.

- 9-44** The comment states that the Draft EIR fails to evaluate project conflicts and consistency with local plans.

Please see response to comment 9-6. As discussed, the Draft EIR considers impacts with respect to applicable regulatory plans, as required by CEQA.

- 9-45** The comment states that the threshold of significance for plan conflict is erroneous and states that exemption from local jurisdiction is not a threshold criteria.

The comment does not state why the thresholds used in the land use section are erroneous. The three thresholds used in the land use analysis (see page 4.4-7 of the Draft EIR) are nearly verbatim from Appendix G, the CEQA initial study checklist. The thresholds are the same as those required to be considered at the initial project review stage, and it is a rational approach to use these thresholds in the Draft EIR when considering if the project would have a significant effect. As to Section 15125 of the CEQA Guidelines, it is unclear what specific component of this part of CEQA is being referenced. Section 15125 is entitled “Environmental Setting.” A separate section of the Guidelines, Section 15126, is concerned with defining and considering environmental impacts.

- 9-46** The comment states that the Draft EIR fails to consider the increase in the number of employees to serve the maximum inmate capacity of the project.

Please see response to comment 9-30.

- 9-47** The comment states that project expansion conflicts with local and regional plans and policies and would substantially impact existing and future surrounding land uses identified in these plans, particularly the San Quentin Vision Plan and the Countywide General Plan (CWP) Bayfront Conservation Zone (BCF).

The comment implies that the project site is within the CWP BCF zone. As discussed on page 4.4-9 of the Draft EIR and shown in Figure EQ-9 of the CWP, the project was determined to lie within the BCF Zone, although the features of this map were unclear. Based on discussions with County planning staff (Rodriguez 2005), the BCF zone coincides with the Baylands Corridor shown on Map 5.2 in the Draft Marin Countywide Plan (2004). A copy of this map is attached as Exhibit 4.4-2 (included in Section 4, “Corrections and Revisions to the Draft EIR”). As shown, it appears that only the project’s perimeter road, which generally follows the route of an existing perimeter road, is located within the BCF. Policies included in the BCF component of the CWP include avoiding encroachment on sensitive biological habitats, mitigating for any wetlands loss, and other factors aimed at protecting biological resources along the bayfront. Although these policies do not apply to CDC (see response to comment 9-6), the project would be consistent with these policies through full mitigation of impacts of biological resources; please see Section 4.3 of the Draft EIR.

The claim that an inconsistency with the San Quentin Vision Plan is a significant impact is not correct. The San Quentin Vision Plan is a proposed plan, not yet adopted, and is proposed to be a part of the Marin Countywide General Plan. Even if the state were not exempt from the County’s General Plan (see discussion in response to comment 9-6), if a developer were to propose a plan

that implemented the San Quentin Vision Plan precisely as currently written, that project would be inconsistent with the applicable General Plan, the adopted CWP. The San Quentin Vision Plan has not been adopted, and until it is, the current CWP would control allowable land uses on the site, if it were not owned by the State. There is no assurance that the County will ultimately include the San Quentin Vision Plan in its new CWP, when adopted, or if it is included, there is no assurance it will reflect current proposals. Furthermore, inconsistency with a land use designation, if it were adopted, is not necessarily a significant environmental impact. Rather, a project would need to conflict with an applicable plan or policy adopted for the purpose of avoiding and mitigating an impact, and the plan or policy must be from an agency with jurisdiction over a project (see page 4.4-7 of the Draft EIR and Appendix G of the State CEQA Guidelines). The San Quentin Vision Plan is not adopted, and because the State is not bound by it (if it were adopted), it is not applicable. Furthermore, no evidence has been provided to suggest that it is an environmental policy. See also the alternatives discussion in Section 7.5 of the Draft EIR.

- 9-48** The comment states that the project's potential loss of employee housing contributes to direct, indirect, and cumulative impacts to traffic, air quality, and other resources.

Marin County has over 100,000 occupied houses. Cumulatively, an additional 776 homes are proposed, approved, or under construction, according to the County. The loss of 57 homes, in this context, is not cumulatively significant. Also, as noted in Master Response 3, the overall on-site employment under maximum capacity conditions with the conversion of H-Unit would be reduced by 62 employees at SQSP, which would compensate (with regard to traffic-related impacts) for new trips if the 57 on-site employees have to commute.

- 9-49** The comment states that execution protests would increase in frequency with implementation of the project and could increase in size and scope if the number of executions increases.

The number of executions at SQSP is not contingent on the CIC. As mandated by State law, all executions are required to be carried out at SQSP. Executions are infrequent (less than one per year since reinstatement of the death penalty), there is no evidence to suggest that this frequency will increase, and the comment does not identify any significant impacts associated with the infrequent protests. No further response can be provided.

- 9-50** The comment states that the Draft EIR uses outdated information regarding median housing prices for the San Francisco Bay Area and states that a sufficient employment base for the SQSP and affordable housing for the employees is not locally available.

The Draft EIR addresses population, employment, and housing issues in Section 4.10. As described, the project is expected to draw primarily from the employment pool in Solano, Contra Costa, Marin, and Sonoma Counties, where 68% of current employees reside (see page 4.10-1). The total number of employees in this four-county area, as of 2000, exceeded over 1 million people, and the unemployment rate for the four counties ranged from 3.0% to 6.1%. Total unemployment for this four-county region numbered over 45,000 people. Regarding housing, the four-county area had, as of 2000, a total of 783,400 units, of which nearly 30,000 were vacant. This is a sufficiently large employment base and pool of unemployed persons and a sufficiently large available housing stock to conclude that the 648 employment opportunities at the site would likely be filled without substantial in-migration of employees to the degree they would create a substantial impact on housing.

Regarding housing prices, there is no question that housing prices in Marin County are high, as stated in the Draft EIR (median price = \$514,600; see page 4.10-5). Although the income level of

a correctional officer would make such a high price difficult to afford, all factors being equal, it is speculative to assert whether new employees (who also include medical and professional staff) would be able to afford living in Marin. Factors that would need to be considered are whether the employee is a sole income earner, income of the other household workers, equity of sold properties, current interest rates, and so on. Rather than speculate on where new employees would reside, the Draft EIR bases its analysis on where employees currently reside, and bases commute patterns and trip assumptions on this data. This is a sound and rational approach.

- 9-51** The comment states that the Draft EIR fails to consider air quality effects of hydrocarbon and other contaminants from clean up, including particulate matter (2.5 microns or less).

Please refer to response to comments 5-1 and 9-40.

- 9-52** The comment states that the Draft EIR fails to address concerns raised in the 2001 California Department of General Services (DGS) report that identified likely soil contamination and potential underground migration of toxics from the industry area shops area and how to mitigate.

Hazard-related issues, including past soil contamination at the site, were evaluated in Section 4.7, Hazards and Hazardous Materials, of the Draft EIR. No evidence has been provided in this or any other comments to support the claim that soil contamination exists elsewhere at SQSP. CDC has extensively surveyed SQSP and monitored on-site wells for evidence of contamination, and no such contamination (other than that identified on the project site) has occurred. Therefore, no further response can be provided. Please refer also to response to comment 5-1, for a discussion of proposed soil clean-up activities at the project site.

- 9-53** The comment states that mitigation is inadequate because it does not address the secondary impacts of remediation and transport or additional grading for removal of hazardous materials, and that impact evaluation and mitigation is deferred.

Please refer to response to comment 5-1. Impacts 4.7-a and 4.7-b on pages 4.7-6 and 4.7-7 of the Draft EIR identify impacts associated with exposure to hazardous materials on the project site. Mitigation measures are included on pages 4.7-7 and 4.7-8 that identify specific actions necessary for worker protection and site remediation, including monitoring activities to ensure all hazardous materials above state and federal action levels are removed. These action levels are the performance standards being sought in the comment.

The comment does not specify which part of the analysis is considered deferred or left to future study, so no direct response is possible.

Regarding secondary impacts, site grading for removal of hazardous materials, and transport of hazardous waste, is included within the overall construction analysis that includes air quality (see Section 4.2) and traffic (see Section 4.12) as modified by these responses to comments. Clean-up activities are expected to generate fewer than 3–4 truck trips over the entire construction period, and this is within the total 25–30 truck trips per day assumed in the Draft EIR (see page 3-20). Furthermore, the presence of hazardous waste would not materially modify site preparation activities as assumed in the Draft EIR, and would not be meaningful against the backdrop of some 200,000 cubic yards of grading assumed in the Draft EIR.

- 9-54** The comment states that water quality impacts and mitigation did not consider secondary or indirect impacts of hazard remediation.

Mitigation measures are included on page 4.7-7 and 4.7-8 of the Draft EIR, which require that all stockpiled contaminated soils are placed on plastic sheeting. This would avoid impacts to groundwater. Impact 4.8-c on page 4.8-6 of the Draft EIR, while not directly addressing the potentially contaminated nature of the stockpiled soils, states that stockpiled soils could be subject to erosion. Mitigation measure 4.8-c on page 4.8-6 has been revised to specifically address hazardous materials. With this mitigation measure in place, impacts to water quality from hazards remediation would be less than significant because there would be no opportunity for runoff to other water bodies. The revised measure is presented below and in Section 4, "Corrections and Revisions to the Draft EIR." This change does not alter the conclusions of the Draft EIR.

Page 4.8-6, Mitigation Measure 4.8-c is hereby revised as follows:

4.8-c: Water Quality Impacts

CDC will prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction and life of the project. The SWPPP will act as the overall program document to provide measures to mitigate significant water quality impacts associated with implementation of the project. The SWPPP will include specific and detailed Best Management Practices (BMPs) required to mitigate significant construction-related pollutants. These controls will include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with stormwater. In addition, all stockpiled soils that contain contaminants from remediated hazardous materials will either be covered with impervious material to prevent runoff, or will be subject to other requirements as specified by the RWQCB. The SWPPP will specify properly designed centralized storage areas that keep these materials out of the rain.

The SWPPP will specify a monitoring program to be implemented by the construction ~~site supervisor~~ contractor, and must include both dry and wet weather inspections. State personnel will conduct regular inspections to ensure compliance with the SWPPP. BMPs designed to reduce erosion of exposed soil may include, but are not limited to: soils stabilization controls, water for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased when grading occurs during the rainy season because disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected will focus on erosion control, to keep sediment on the site.

- 9-55** The comment states that mitigation to redirect PA speakers away from on-site residences to the extent feasible should not be considered mitigation of impacts to less-than-significant level.

Three mitigation measures are included in response to potential noise at residences located on the grounds of SQSP. Two measures address PA speaker noise, one requiring direction of the speakers away from the residences to the extent feasible, and the other requiring an advisory notice in all lease agreements that dwellings may be subject to PA speaker noise.

CDC's first and foremost concern associated with the proposed CIC is its safe operation. The PA system is critical because it provides a layer of warning to inmates and officers if a safety incident is in progress. Because only preliminary design of the facility has been conducted, commitments on the placement of the PA system cannot be made. Thus, CDC can only commit to what is feasible.

Inmates at the CIC will not be allowed outside at night; thus use of a PA system at night would be rarely, if ever, used. Furthermore, yard areas (where PA speakers are most frequently used) are surrounded by proposed housing units and would buffer PA speaker noise that travels off-site. This, in combination with lease disclosures to CDC staff and CDC's commitment to reduce PA noise at on-site residences to the degree feasible, is sufficient for CDC to conclude that noise impacts would be less than significant to its employees residing at the site.

- 9-56** The comment states that noise generated from I-580 is irrelevant because the San Quentin Ridge separates the project site from this freeway.

This comment does not address any specific discussion in the Draft EIR, and there are no discussions about I-580 in the noise analysis except as a geographic indicator (e.g., Table 4.9-5 lists "Main Street, West of I-580"). No additional response can be provided.

- 9-57** The comment states that the Draft EIR relies on a speculative source for water (desalination plant) without any fallback source should the desalination program be abandoned.

Please see response to comment 9-37.

- 9-58** The comment states that the Draft EIR fails to consider the proposed maximum capacity of 7,380 inmates in the water supply evaluation.

Please see response to comment 9-28.

- 9-59** The comment states that the Draft EIR fails to analyze how the level of electricity consumption of the project would lead to cumulative impacts on the ability of the state's energy grid to meet peak demand loads.

The Draft EIR conclusions are based on consultation with Pacific Gas and Electric (PG&E), the purveyor of electricity to the site and to a major part of Northern California. It is presumed that PG&E would have sufficient expertise to conclude if the project would adversely affect its electrical supplies.

As described in the Draft EIR, the proposed project would result in an electrical load of 5.1 megawatts (MW). The California Energy Commission, in its 2004 energy supply outlook report, showed a reliable statewide capacity of 60,815 MW and a peak summer demand of 53,900 MW, a 7,000 MW cushion (California Energy Commission 2004). Although California will need to continue to pursue long-term electricity supplies, it can neither be argued that the project would consume a substantial portion of the available remaining supply (it would consume less than 0.1%) nor a considerable portion of total electricity (less than 0.001%).

- 9-60** The comment states that the Draft EIR does not address the requirement that all state buildings be installed with solar energy equipment and states that the visual simulations do not reflect the installation of photovoltaic or other solar equipment on the roofs of the complex.

The comment implies that installation of solar panels on State-owned buildings is a requirement by law, which is not the case. In 2000, the Governor adopted Executive Order D-16-00, which outlines sustainable building goals for the siting, design, and construction of new buildings for State entities. This order is advisory only, and does not mandate the specific energy saving features, such as solar panels, that should be installed at State buildings. Although CDC is a State agency responsible for cooperating with and providing information to the Secretary for

Environmental Protection regarding its energy conservation practices, it is not bound by law to install solar panels at its institutions.

Regarding energy conservation measures for the project, in response to Executive D-16-00, CDC has agreed to consider Tier 1 and Tier 2 Energy Efficiency and Sustainable Building Measures to the extent feasible in the prison environment. Accordingly, CDC's design standards include most of the recommended Tier 1 and Tier 2 measures, and these design standards were applied to the project. Examples of Tier 1 and Tier 2 measures that will likely be incorporated in the design of the CIC include: exceed Title 24 Energy Efficiency Regulations by 10%, design heating and ventilation systems according to the "New Energy Standards for State Buildings" (July 2001); use fluorescent lighting systems and low-wattage exit signs; use skylights where feasible and consistent with security requirements; use low-water-use plumbing fixtures; and use materials made from recycled products.

The reason that visual simulations do not depict solar panels is that they would not be constructed with this project and are not required. Finally, because the project would not result in significant impacts pertaining to energy resources, measures are not needed to mitigate any such impacts.

9-61 The comment states that the Draft EIR does not address Executive Order D-16-00, which addresses LEEDS (Leadership in Energy and Environmental Design) certification and sustainable building concepts. Please refer to response to comment 9-60 above.

9-62 The comment states that the Draft EIR's analysis of police protection fails to consider the increased number and size of execution events that could result from implementation of the project.

Please see response to comment 9-49. As described, there is no evidence to suggest that executions would increase in frequency in the future; if they did, such an increase would be independent of the project. Furthermore, no rationale is provided as to why the size of "execution events" would increase. A significant impact to police protection would occur, pursuant to CEQA, if in order to maintain adequate service ratios, staffing would need to increase to the extent new or altered governmental facilities would need to be constructed, with such construction potentially leading to significant environmental impacts. This is not a foreseeable outcome of the project.

9-63 The comment states that the proposed trip generation does not add up with staff of 648, visitors, and deliveries. The comment suggests the peak-hour methodology is antiquated and states the traffic counts are less than actual count, which makes the determination of no significant impact erroneous.

Regarding proposed trip generation, the trip generation for the project was based on a 24-hour traffic count and parking survey conducted at Main Street and SQSP east gate for the 4 peak hours evaluated for the project (see page 4.12-9 of the Draft EIR). The ratio of existing employees to trips during these hours was then applied to the project. This methodology is consistent with Marin County Congestion Management Program (CMP) methodology. Regarding trips and total employment, as shown in Table 3-2 (page 3-20 of the Draft EIR), the largest number of project employees on any one day would be 452, and the most during any shift would be 169. Because no data on how the trips generation is erroneous was provided, no further response can be provided.

Regarding peak-hour methodology, this methodology is standard practice in the industry and is the methodology approved by the Marin County CMP, City of Larkspur, and City of San Rafael. The comment does not provide suggestions for other methodology that should be used, thus no further response can be provided.

Regarding traffic counts being less than actual counts, it is unclear to what the comment is referring; no further response can be provided.

- 9-64** The comment states that numbers used for traffic modeling do not reflect any accurate, stable, and finite project description and that the traffic analysis was not run through Marin County's traffic model for impact analysis.

Please use responses to comments 9-11 and 9-12 regarding the stability of the project description. Regarding review of the project by regional transportation agencies, please refer to response to comment 9-34. In addition, the traffic analysis was prepared using methodology prescribed by the Marin County CMP. See response to comment 10-16.

- 9-65** The comment states that the west gate is not in the City of Larkspur and that County of Marin standards and thresholds should be used for analysis at this location. The comment also states that the Draft EIR fails to suggest suitable mitigation for this intersection.

The comment is partially correct, the state-owned property of west gate is not located within the City of Larkspur; however Sir Francis Drake Boulevard and coastal areas at and east of west gate are within the City's jurisdiction. Regardless, traffic impacts for the unsignalized intersection of Sir Francis Drake Boulevard/west gate were determined using 2000 Highway Capacity Manual modeling methodology, which is consistent with Marin County CMP requirements.

Regarding mitigation at this intersection, the Draft EIR (page 4.12-21) concluded that although this intersection would operate unacceptably (i.e., LOS F), the project would only increase traffic volumes by seven vehicles or 30% of peak-hour traffic, and this is less than City of Larkspur thresholds. Therefore, this would be a less-than-significant impact. Consequently, the project is not required by CEQA to provide mitigation at this intersection.

- 9-66** The comment states that the GGBHTD Route 40 should be researched and included in the "Existing Transit Network" section of the Draft EIR and identifies as a major barrier for bus patrons the lack of a sidewalk along Main Street.

This comment is acknowledged. The following information is provided. The Golden Gate Transit's Bus Route 40 operates in conjunction with Route 42 from the San Rafael Transit Center to El Cerrito Del Norte BART Station via Francisco Boulevard and I-580 within the vicinity of the project site. Route 40 operates weekdays on 30-minute headways during peak hours only, with service from the San Rafael Transit Center from 5:55 a.m. to 7:55 a.m.; and 3:25p.m. to 5:25 p.m., in the eastbound direction and from 6:14 a.m. to 7:58 a.m. and 3:42 p.m. to 6:46 p.m. in the westbound direction. Route 42 operates weekdays on 30-minute headways during the non-peak hours, in the eastbound and westbound direction.

Exhibit 4.12-2 has been updated to reflect Bus Routes 40 and 42. The revised exhibit is presented in Section 4, "Corrections and Revisions to the Draft EIR." This change does not alter the conclusions of the Draft EIR.

- 9-67** The comment states that the Draft EIR fails to describe in the "Existing Parking Facilities" section the use of on-street parking by visitors to SQSP, which results in a burden to the San Quentin Village community.

CDC acknowledges that some visitors to SQSP choose to use on-street parking along Main Street rather than using designated visitor parking lots; however, this occurrence is rare and is not

encouraged by CDC. Nonetheless, Section 4.12 has been revised to reflect this condition as presented below. This change is also reflected in Section 4, “Corrections and Revisions to the Draft EIR,” but does not alter the conclusions of the Draft EIR.

Page 4.12-6, third paragraph, is hereby revised as follows:

On-street parking is permitted along Sir Francis Drake Boulevard immediately adjacent to the west gate entrance. Although this area is used infrequently during typical weekday and weekend conditions, it is frequently used by recreational windsurfers ~~that~~ who access San Francisco Bay when weather conditions are favorable. On-street parking is also ~~occurs permitted~~ along Main Street ~~prior to~~ before the ~~e~~East ~~g~~Gate entrance. Similar to ~~w~~West ~~g~~Gate, on-street parking along Main Street ~~is~~ is infrequent and generally used by visitors to SQSP or guests of the residents of San Quentin Village.

- 9-68** The comment states that the “Significant Impacts That Can Be Mitigated to a Less Than Significant Level” section should account for traffic and parking impacts on Main Street and include a statement relating to the Marin Countywide Plan.

It is unclear what analysis the comment intends the Draft EIR to provide. Adequate parking would be provided with the project to accommodate staff and visitor demands. The project would not be expected, therefore, to contribute to parking impacts along Main Street above what currently exists. It is unclear what reference to the Marin Countywide Plan the comment addresses, so no further response can be provided.

- 9-69** The comment states that the Draft EIR should analyze the noise and lighting issues that would result from shifting the construction hours and what actions would be taken to address the arrival and departure of trucks from the project site.

The comment implies that project construction activities, as constrained by Mitigation Measure 4.9-a, would result in a substantial change in the duration or timing of construction activities. This is not the case. Construction-related vehicle trips would need to be restricted, except during non-peak hours (e.g., before 7 a.m., between 9 a.m. and 4 p.m., and after 6 p.m.). However, noise-generating construction activities (e.g. demolition, pile driving, etc.) would be constrained to the hours of 7 a.m. to 6 p.m. Monday through Friday, and 9 a.m. to 5 p.m. on weekends and legal holidays. These operational constraints are feasible and could be accommodated by CDC within the proposed construction schedule. Construction activities would not occur during nighttime (e.g., 7 p.m. to 9 a.m.) hours, so no construction-related nighttime lighting would be required. However, existing and proposed nighttime security lighting would continue.

- 9-70** The comment expresses appreciation for the opportunity to comment on the Draft EIR on behalf of Marin County and provides contact information. This comment is acknowledged. Because no environmental issues were raised, no further response can be provided.